THE CRISIS.

NEW YORK:
D. APPLETON AND COMPANY,
443 & 445 BROADWAY.
1863.

HISTORY

OF

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By HENRY THOMAS BUCKLE.

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THE CRISIS.

The Constitution of the United States of America is an interesting document in many respects, and affords ample matter for speculation to reflecting men who love to occupy themselves with Politics. But now, when the use of its name is in the mouth of every man that speaks, and in the pen of every man that writes,—when it is applied indifferently, and made to serve contradictory purposes—to protect and justify both parties in the unhappy quarrel which distracts the country, and shakes her government from its very foundations,—one is tempted to re-read that Instrument, and give utterance to one's own thoughts upon it,—even one who does not wish to meddle in Politics. Nor is there any wonder if he yields to the temptation; as none there is, if, living in the midst of a plague, a man catches the contagion, or, rather, the contagion catches him.

Only he labors in vain. Being no politician himself,—having no personal acquaintance, nothing at all to do in the political world,—what chance has he of being attended to? If he speaks, his voice is drowned in the general cry—"*The Constitution!*"—a cry that fills the air, and sounds like to many waters. If he writes, there is no leisure to look at his writing, were it even good, and to the purpose; which I cannot say mine is. But people have got no time for reading, except journals and novels: they leave unread papers digested by their own penmen, or even those of the adverse party; though duty and self-interest would urge them to it.

Two years ago all the Southern States, South Carolina excepted, were still represented in Congress at Washington, and in a state of anxiety and suspense, waiting, before resolving themselves what to do in that memorable juncture, that the incoming administration should plainly declare what course she intended to pursue in regard to the old, all-absorbing controversy, whose critical moment was now come; and when by that declaration, which was solemnly made and repeated, they could no longer doubt what the North's intentions were, and that she was determined to carry them by all means into execution, the Louisiana representatives, in a joint letter addressed to their constituents on January 14, 1861, said: "*The time for argument is passed; that for action has arrived;*"—which sentence, I regret to say, has been ever since acted upon by both parties with unexampled energy and animosity, to the desolation of this country, and the utter ruin of the largest, most unoffending portion of its inhabitants.

In December, 1859, Mr. Helper published a book entitled "*The Impending Crisis;*" as if he knew what should soon come to pass! Perhaps he knew it not; or the event maybe has something more in it, or something less, than he anticipated. But, far from giving him the credit of a prophet, I regard those his words, not as a prediction of what now occurs, but as a preparation to it,—a means, a help to bring it about.

Prophet I would rather call somebody else, and especially Mr. Buchanan, who, twenty-seven years ago, said in the Senate, "*that the Union would be dissolved at the moment an effort would be seriously made by the Free States in Congress to pass such laws,*"—namely, interfering with Slavery. It is true, that when some of the slaveholding States had actually dissolved the Union on that account, he denied them the right to secede, which might seem a contradiction; but perhaps, in 1836, he meant that, even in that case, the Union would have been dissolved without just cause; or, in 1861, that those States have not waited

till the passing of such laws as he contemplated. He spoke, however, only of *an effort to pass* them.

I write now "*The Crisis.*" By and by—and I hope soon—somebody else will write "*The Past Crisis;*" and thus I connect the present with the past and the future.

By the beginning of the last century, under the reign of Queen Anne, when the struggle between Whig and Tory was most fiercely raging in England, Richard Steele, esquire, wrote a pamphlet styled also "*The Crisis;*" and Dr. Swift wrote another to make fun of it. I apprehend nothing of this. As I am not Steel, but only Iron, so it is not a Swift that might answer me, but only a Slow.

To secede from the Union, the slaveholding States invoked the Constitution. To prevent them from seceding, or compel them to re-enter the Union, the Free States invoke the Constitution.

Is it possible this Instrument contains the *Yes* and the *No* for the same thing? and such a thing! If it does, I hesitate not to affirm, the Constitution of the United States of America is good for nothing but mischief, and that would make it bad enough. If it does not—and surely it does not—then the fault or mistake must be found in its interpreters on the one or the other side. Now, which of the two is wrong? It is not possible they should be both right; although they might be both wrong. In many a contest, and especially in war, the two parties do fight unjustly, though not from the same causes. In the present instance, however, the wrong may indeed be common to both sides in regard to some contingencies, or incidental branches of the controversy; but with regard to its substance and the main thing, I believe one of them to be right—the other wrong, of course.

Let us state the terms of the case as they were in March, 1861, when several of the Southern States had already seceded; when the contending parties not yet had come to blows, but stood face to face with drawn swords in their hands, waiting only for the fatal sign to thrust them into

each other's body. The fatal sign we feared, has been given indeed, and not once only, but numerous, almost numberless times, and never in vain. For the present purpose, however, we must forget, if possible, all that has happened since that time, and think, not of the consequences, sad though they are, but of the principle whence they proceeded. We must begin with the beginning, if we wish to institute a reasonable inquiry into the matter, and judge of it with the conviction that our judgment rests upon solid ground.

The North wants to abolish Slavery; the South wants to keep it. Yet this is not the immediate cause of the present quarrel.

By words and facts, accompanied with circumstances of the most aggravating character, the North has for a long time constantly irritated the South to the very last extremity, and finally has brought her to that point which is past endurance. If the expression were proper, one might say she has driven her to madness. But in her career against the South she seemed to pause, and even move some steps backwards.

Confining her opposition within some bounds, she professed not to seek the *abolition* of Slavery any longer, but only to prevent its *extension*. She allowed it to remain as it was, where it was, in the old States, but contended it must go no farther: namely, it must not be introduced in the territories belonging to the Confederation which are as yet uninhabited, but whose several portions might, and probably would, have settlers, be formed into distinct communities, and in time be duly admitted as States into the Union. To these States in embryo, or expectation, she does now restrict her exclusion of Slavery, and says she has the right to exclude it thence by the Constitution.

True it is the Emancipation lately proclaimed by the President, although it is conditional and under certain limitations, might give one reason to suspect that, by moving some steps backwards, the North meant only to get a start

to spring ahead on a sudden, and reach at a greater distance forwards. But, first, that measure is perhaps disapproved by the bulk of the Republican party herself; in which case it would not represent her intentions; for it may have been forced, so to speak, upon the President by some few in that party, who are far from having the concurrence of the rest.

I may even suppose he has issued that proclamation in order to content those few, and thus get rid of their importunities; well knowing, however, in his own good sense, that it would have no effect, as is fairly presumed it will have none. Things of that sort are occasionally done by governments. Though announced with the greatest solemnity, and having all appearance of earnest, they are from the beginning intended to remain a dead letter nevertheless.

Neither is it impossible that measure has been suggested, as it were, by despair. Seeing that, after eighteen months' hard fighting, with such an immense loss of life and money, affairs presented no better—perhaps a worse—aspect than they did before, the President may have proclaimed that conditional emancipation as an extreme remedy, hoping by this means the Southern States might possibly come to some terms.

I presume not to inquire into the merit, legality, or policy of such a measure. This emancipation, however, may be looked upon as a sort of confiscation, although the value of the confiscated property should not, as in ordinary cases, go into the government's coffers; which is owing to its destination as well as to the quality of the property affected. Had this been of a common kind, the President saw the confiscation would have been proclaimed to no purpose. The Southern States would have given our government the same answer which Proxenes, one of the generals in the army of the ten thousand Greeks, gave to Phalynus, when, after the battle of Cunaxa, in which Cyrus the Younger was slain, he brought them from King Artaxerxes the order to deliver up their arms: "*Come and take them.*"

As the affected property, however, is of an extraordinary kind,—one that has understanding, and will, and legs, and therefore is able to run away by itself, if it chooses, or even turn against its owner,—the President may have imagined that the people of the Southern States, rather than run the risk of such a loss, or worse, would prefer to desist from fighting. But perhaps there is no risk to run, as that property may have better reasons quietly to remain where it is, than attempt to avail itself of the great privilege tendered by the proclamation.

But laying these and other considerations, or conjectures aside, it appears that this emancipation,—it being of so recent a date, and a consequence of the war (for, otherwise, it should have been proclaimed soon after the secession had taken place),—cannot change the position which the Republican party occupied two years ago towards the South. And whether we regard her intentions, as expressed by other her representatives, or by Mr. Lincoln himself, every good rule obliges us to believe what they said in the beginning of 1861, and not what they may have said at the end of 1862, or any time afterwards.

This emancipation measure is apparently one of the effects of the war; the war is said to have been the effect of secession; and secession has certainly been the effect of something else. This something must needs be found in the position held by the North towards the South at the time when the secession took place. And as that is the real cause which has produced all these effects, so it is that we must try to ascertain, without regarding either the consequences of the war or the war itself.

During these twenty months last past, many and great battles have indeed been fought, with various success on either side; although, whichever party wins upon the field, the country is equally the loser,—she mourns her dead. And this fighting, besides the long train of its other evils, has also furnished new occasions, or pretexts, for reciprocal attempts and injuries calculated to make the already wide

estrangement of the parties still wider, and entangle matters so as to render any peaceable adjustment between them more difficult, if not wholly desperate.

Yet neither the fighting, nor the lamentable occurrences and incalculable losses of all sorts which it has occasioned, nor the mutually increased resentments consequent thereupon, have in the least altered the terms of the case. Most heavy, indeed, those evils are, and the largest portion of them is irreparable; but the point in controversy, the direct cause of the contest, does still remain at present in just the same condition in which it was when the South seceded.

Let, then, the contending parties willingly take, each on herself, that share of those evils which is commensurate to her own mistakes or faults; and, replacing themselves in the position they held towards one another in March, 1861, view now the cause of their quarrel in that same light in which they should have viewed it then.

This is what I shall endeavor to do in the following pages, wherein I regard the position of the parties as they respectively stood when Mr. Lincoln entered into office, and consider the cause of their dispute on principle, referring to the Constitution both the facts and the consequences that naturally flow from them. If in anything I am mistaken, which is very possible, I am also ready to acknowledge and confess my error as soon as it is shown to me that it is an error.

However, since the original point in question still remains unchanged, one should hope that, if in these pages there happens to be any useful thought or hint, it may even now be fitly submitted to the Public, and be, perhaps, as much available to-day as it might have been before the fighting began.

Cannot the parties stop fighting for a while to look their own work in the face without shrinking, and then act according to what their own interest shall at that sight counsel them? This seems both just and very possible for them to do, although it is rather hard, I confess, to look cool

when one is hot. But the people is not hot, I presume. And such a view of the matter is now become, I dare say, absolutely indispensable for the parties themselves, if they will but reflect on the past, the present, and the future;—how little can they hope to gain, and how much are they sure to lose, in keeping the road they are treading upon.

If they will make this effort, with the serious purpose of putting an end to their contest in a manner consistent with justice and the Constitution, there is hope yet of their agreeing in this one thing at least,—namely, in terminating it without arms, either for reunion, or for definitive separation.

And some such agreement appears at present by the great complication of events, in and out, to be forced on them the more irresistibly, because it seems the only one means left for disappointing the long-cherished, now apparently well-grounded, hopes of the enemies of this country.

But, to return from this digression, if it is one, I have before stated that, at the time when the Southern States withdrew from the Confederacy, the North declared herself satisfied with Slavery's remaining where it existed in the old States, but proclaimed she would not allow it to be introduced in the common territories of the Union.

And that this is the political faith which then the North openly professed concerning Slavery, Mr. Seward, who was, and perhaps is, considered to be her mouth, will bear me witness. I refer to his speech in the Senate on January 31, 1861. For though some people of note in his own party would have given Slavery no quarter in any part of the Union, whether old or new, nevertheless I do regard that his speech to represent and express the real intentions of the North.

The more so, because not only he himself informs us that he has "*followed this thing in good faith, with zeal and energy*," which shows that he is sure of what he says; not only because, on the testimony of the adverse party herself,—which is a great argument for ascertaining truth in

matters of fact,—he was acknowledged to be *the head* of the Republican party, as appears from the remarks on his speech presently made by Mr. Mason at the time of its delivery, and from the above-mentioned letter of the Louisiana representatives; but also and chiefly because, if the North chose in this controversy to assume her position before the South,—not according to Mr. Seward's views, which were honored by some with the appellations of liberal, moderate, conservative,—but according to the views of those extra-Republicans, who seem to have on their banner stamped the motto, "*Neck or Nothing*,"—she could gain nothing by the change. Visibly, her condition then would be, not better, but only worse than it is, as I take it.

Now, that speech of Mr. Seward's regards this territory to be the disputed ground, and turns all upon it, as if, in order to see it free, he intended to guard and fence it around against the approaches and the intrusion of Slavery. For, after stating its extent to be "1,630,000 *square miles, an area equal to twenty-four times that of the State of New York*," he reckons that "*during these twelve years* (from 1850) *Slavery has succeeded in planting in it only twenty-four African slaves,—one slave upon forty-four thousand square miles of territory,—one slave for every one of the twenty-four States;*" and concludes: "*This, then, has ceased to be a practical question.*"

By this, I see, he clearly defines the controversy; but I confess I do not as clearly understand what he means by his conclusion. Are these twenty-four black men planted by Slavery in the twenty-four States, each in each respectively, to be considered as landmarks or signs of possession? But then Slavery has occupied the whole territory already, —each one black man representing the multitude of his fellows who are to come afterwards and fill the 44,000 square miles in which he is planted; in the same manner as, by giving the key, is meant giving the possession of what is contained in the room whose door that key opens; as a Scotch farmer, by taking out of his pocket and showing to

you a handful of wheat, if you agree to the quality and price, sells to you all the wheat he has stored up in his granary and wishes to dispose of: it must be all like that sample. Which conclusion, I imagine, is just the reverse of what Mr. Seward intends to insinuate.

Much less do I understand what he means when, on the one hand, he avers that, "*under what is accepted by the administration and the government as a judicial decree, upheld by it, and put in execution by it, every inch of that territory is slave territory;*" that "*every foot of it is slave territory as much as South Carolina;*" that "*over a considerable portion of it a Slave code, made by a government created by the Congress of the United States, is enforced;*" and, on the other hand, he "*confesses that he has no fears of Slavery anywhere!*"

The sense of this word *anywhere*, I believe, goes not beyond the territories, but is circumscribed by their limits; but, even thus, it is scarcely possible to imagine what else may be necessary in order to regard a thing as immovably fixed, when there is for it a judicial decree, acknowledged just, upheld, executed by the government; when its provisions are enforced also by a local government on the spot, created by the Congress of the United States! For, we have here the unanimous agreement of the three powers that may possibly belong to a government,—the Legislative, the Judicial, the Executive,—all concurring in the same thing, to the same end. If this is not what they call an *accomplished fact*, ever to be recognized as such both by the government and by all the citizens who belong to it, one should conclude that nothing is here to be relied on as firm and durable, and that the government of the United States, even in its most public and solemn acts, is only playing a farce.

Hence it appears that when Mr. Seward subjoins, "*I speak of that decision, not as I accept it, but as it is accepted and enforced by the existing administration,*" these his words must be understood either to have no meaning,—

and then they go for nothing,—or to signify that he may accept the decree differently from what the government does; in other words, that he, or any other citizen, may control the government,—which meaning, as it appears to me, would be far worse than no meaning at all.

Not to mention that, could the judicial decree which he alludes to be accepted in different manners, as if its words were ambiguous, and its provisions not positive, but uncertain, the mere possibility of contradictory interpretations would reflect no credit upon the tribunal that pronounced it, nor on the government of whose power it holds so large a portion,—as the responses of many an ancient oracle, whose expressions might be construed into contrary senses, reflected no credit on the god or goddess that gave them; but then the oracle knew not what it said, or meant to cheat the inquirer.

To Mr. Seward's I may add the testimony of the President himself, in his Inaugural Address, delivered on March 4, 1861. And we may in this matter regard him to be not only the chief witness, but alone sufficient; as, besides other considerations, he speaks in his official capacity of President of the United States, and at a time which is the most solemn. Yet I have not mentioned him before, having regard to dates. There he says: "*One portion of our country believes Slavery is right, and ought to be extended; while the other believes it is wrong, and ought not to be extended. This is the only substantial dispute.*"

As H. E. uses here the same language which is generally made use of by those who speak on this subject, I would submit the observation that, in stating the terms of the controversy, no mention should be made of Slavery's being right or wrong, with respect either to its existence in the States, or to its introduction into the common territories of the Union. The only thing to be inquired into appears to be, "Whether the Constitution allows it in both places."

To ascertain this is to ascertain also the right of the two portions of the country in their political relations with one

another concerning slavery in the territories. If the Constitution does not allow it, the ones cannot settle there with their slaves, although they believe that Slavery is right. If the Constitution allows it, the others cannot prevent the former from using their right, although they believe that Slavery is wrong. Indeed, either party's belief of right or wrong, respectively, cannot have in this matter so much as the weight of a feather to make the scales incline to one side or the other.

I hope I may be permitted to remark further, that from the fact of the slaveholders settling with their slaves in the common territory, Slavery cannot well be said to be *extended*. This term would seem appropriate, if a new country were conquered, and its people, now free, reduced to Slavery; or even if the condition of those who are slaves already were made harder and worse than it is at present. But the fact of cultivating with slaves a larger amount of acres, or of transplanting them from any State in the Union into any part of the territory belonging to the Union, their condition remaining the same in either place, does not seem to warrant the expression that Slavery is thereby *extended*. They would be just as numerous, and as much slaves, when distributed into two places, as when kept together in one.

Certain it is, however, that the North did then consent Slavery to remain where it was, in the old States, and intended to exclude it only from the territory, or from the States that might be organized in it afterwards.

If these terms could have been acceptable to the South, and met her full satisfaction, I have heard say that she would have objected to them nevertheless, as she has no confidence in the promises of the North: nor is this to be wondered at. After so long, unrelenting opposition from the latter, embodied in numerous facts, too plain to be mistaken, too significant to be unfelt or dissembled, the South can scarce be expected to trust and believe as they sound any professions of her old adversary, importing even a par-

tial renunciation to what she has constantly shown in times past to be her fixed determination.

She might have not unreasonably supposed her words to be the language of an accommodating policy, dictated by present necessity. Seeing she was unable to accomplish her end, she showed herself ready to give up a part of her pretensions in order to secure what she could at present, with the view of returning to her ways, and attempting to carry out the rest as soon as any favorable opportunity of success offered, and she had in her own hands the power of realizing her purpose.

Guarantees have been spoken of, by which the South might feel secure in the peaceful enjoyment of her rights for the future. I know not whether she does really wish for these guarantees, or would acquiesce in them, if given; but I fear the North did then, as she now does, find herself in just the same position towards the South in which Sparta was towards Athens at the time when, a treaty having been agreed to between them, and nothing else being wanting to conclude it but securities to be given by her for its observance, Iphicrates said to the Spartans: "*The Athenians are resolved not to accept from you any other security, but your yielding up those things into their hands by which it might be manifest that you could not hurt them even if you would.*"

The South, however, is not satisfied with the terms proposed by the North, as above set down, although she had no cause of mistrust, but could fully rely upon their being strictly observed. She contends her citizens have as good a right to go into the territory and settle there with their property, including slaves, as may the citizens from any other State in the Union,—which property, and its free use, she affirms the Federal government is bound to protect and guarantee to them in the same manner as it is bound to do in their original States respectively. And this right of her citizens she claims and asserts by the Constitution.

This, and no other, is therefore the question, the imme-

diate cause of secession. Does the South pretend that the territory, or future State, where her citizens might settle, must become what is called an exclusively Slave State, with a Slave code, as if other citizens who have not, nor intend to have, any slaves, should be forbid to enter its borders, to acquire and cultivate its soil with free labor, or be any way annoyed and forced to depart? If she pretends this, "*in hoc non laudo.*" That same right which she claims for her citizens, does certainly belong to the citizens of the North,—namely, to settle in the territory, and there attend to their own business, employing such means as they deem best for themselves: but I do not believe she has any such pretensions.

The point in controversy being thus defined, it remains to be seen whether the Constitution resolves it in favor of the North or of the South; for there can be no doubt but that the question must be decided by the Constitution, and by nothing else.

It is not strange, because it is common, but it is certainly curious to hear politicians denounce Slavery as unchristian, and preach Abolitionism from a platform or in a newspaper; and it is yet more curious, to say no worse, to hear preachers, that should be of the gospel, condemn Slavery and announce Abolitionism from the pulpit, and recommend the use of Sharp's rifles as the best, the only argument able to convince the slaveholder! Sharp's rifles have been used, but the slaveholder is not convinced. He even seems to maintain his position more firmly than ever. Both those people, however, wander from their texts; nay, they forget that the Government of these United States is "no religion" government. It was established, not on religious, but only on political principles; not for the purpose of having a Christian community, but to the end of securing to her members and citizens the enjoyment of their political rights,—namely, of independence and sovereign power in the States,—except what they delegated to the federal representation,—and of personal freedom, life, and property, in the individuals.

That these are the principles, the motives, the end of the Federal government, I need not prove; they being distinctly set down and embodied in the Declaration of Independence, in the Articles of Confederation, in the Constitution. They are both its foundation and structure; its essence as well as its form in all its features and details. And as they were the creating spirit which gave existence to these three documents,—witness their whole tenor, and every single word contained in them,—so must they be the animating spirit which pervades through the whole machine, and every single part of the government which they brought into life, and inform all its actions and movements throughout its duration.

Nowhere in those instruments is Religion mentioned, but to exclude her from having any part in the government,—thus showing how scrupulously its founders regarded and maintained universal liberty concerning her. It is enough to recite the words prefixed to the Constitution to declare its reasons and object: "*We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of Liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.*" To what confederation of heathen governments could not this same preamble have been prefixed,—all its words having precisely the same meaning which we attach to them? Suppose any of the States became now deranged in Religion, and turned Pagan! Could this be a reason why she should no longer form part of the Union, and her members be accounted citizens of the United States? Certainly not, by the Articles of Confederation, nor by the Constitution.

It were indeed to be wished that Slavery did not exist, not only among Christians, but anywhere in the world, as it were to be wished that war did not exist. For if we look back, and trace things to their beginnings,—whatever

Aristotle or others might say about mankind's being naturally so made that the ones are born to command and be served, the others to obey and serve (for they have sometimes exchanged places, whereas nature cannot be controlled),—we see that Injury begat War, and War begat Slavery. Unjust desire of Gain came afterwards to help War, and Avarice has made perhaps more slaves than War itself. She regards it as matter of business, and, having reduced it into a regular trade, overruns both seas and lands by her emissaries, whose mission it is to catch or buy men as cheaply as possible, and sell them again at greater prices wherever there is a demand for them.

But, as to Christianity, is Slavery indeed unchristian? In other words, cannot one be a Christian who keeps slaves, while and because he keeps them? For, this is the test of Christianity, to forbid a thing while it is doing, because of its doing, on its own account,—namely, because of its intrinsic criminality; as lying, stealing, any other moral evil. If it became me to speak of Christianity to anybody, and more especially to those who profess to preach the gospel, I would have no hesitation to say that Slavery is not unchristian, because both he who is a slave, and he who keeps and actually uses him as such, may yet be Christians, and very good ones too. A Christian will not make a free man a slave, but he may have a slave where there are slaves.

In 1850, a memorial was presented to the House of Representatives, where its reception was finally voted down, in which several inhabitants of Pennsylvania and Delaware pray "*for the immediate and peaceful dissolution of the American Union*," because they "believe that the Federal Constitution, in pledging the strength of the whole nation to support Slavery, *violates the Divine law;*" and in 1852, the delegates of the Free Democracy, assembled in national convention, while enumerating their principles and measures, say "*that Christianity demands the abolition of Slavery;*" and yet, not only is there nothing in the Old Testament nor in the New which condemns Slavery as criminal,

and forbids it, but one may wonder that these gospel preachers have not read, or have forgot, what the Apostle says concerning it. Unless they intend to preach a gospel different from that which the Apostles preached, or think themselves more Christian than St. Paul was, they must confess that Slavery is not unchristian; since this Apostle acknowledges it as actually existing among the Faithful, but says not a word to forbid or abolish it.

Far from this, he gives rules to both master and slave how to perform their reciprocal duties, and well acquit themselves of those obligations which bind them towards each other. To the slave he prescribes good will, obedience, patience, fidelity to his master; to the master he prescribes justice, kindness, forbearance, good treatment to his slave. If either of them acts contrary to his duty, the worse for him. The Apostle assures them both that of all their doings they shall give a strict account to a Judge who is their common Master, and with whom there is no respect of person.

He does not say to the slaves, "Your condition is unnatural and unjust; it is against Christianity; you should be free;" nor does he say to the masters, "You must make your slaves freemen, if you wish to live according to the Christian law, and get saved." Yet this he should have said, and certainly he would have said it, if Slavery were not consistent with Christianity.

St. Paul's words to both master and slave are in his letter to the Ephesians, chap. vi. 5–9. He repeats them to the Colossians, chap. iii. 22–25, and chap. iv. 1; and the same thing he enjoins his disciple Titus, Bishop of Crete, to teach the Christians under his charge. But, not to mention other passages of the like import in his writings wherever he touches on that subject, St. Peter also teaches the same doctrine to the Faithful in his letters.

Nor can the Apostle be understood to speak, not of slaves properly so called, but only of *servants* in the general acceptation of the word, as if he alluded to the relations

which mutually pass between the poor and the rich, the workman or clerk and his employer. No; for these also, and generally for Christians of all conditions, he lays down rules how to behave; as he does in a special manner for sons and fathers, for subjects and sovereigns, and for others; but in the passages mentioned above he speaks to slaves proper. They are clear and positive in the whole context, so that their meaning is unmistakable; but all shadows of doubt, if there could be any, are dissipated by the words he addresses to servants in the above-cited eighth verse of his letter to the Ephesians, where he contrasts their condition with that of freemen. For, after exhorting them to serve to their master with a good will, as if they served, not to men, but to God himself, he concludes: "Knowing that whatever good thing any man shall do, the same shall he receive from the Lord, whether he be *bond* or *free:*" *sive servus, sive liber.*

And we must remember that, at the time when the Apostle wrote, under the Roman empire, Slavery was spread over the whole world. In Rome, many a citizen counted his slaves by tens of thousands.

The advocates of Abolitionism appeal also to Humanity and Civilization, representing Slavery as inhuman, barbar ous, not becoming a civilized people. But if Christianity does not forbid Slavery, the necessary conclusion to be drawn from it is, that neither Humanity nor Civilization forbid it: unless it were maintained that Christianity is against Humanity and Civilization, or that Humanity and Civilization are against Christianity. They may be, indeed, against her, and in many a thing they are; but then it is they that are in the wrong; for, whenever they are against Christianity, they are against Reason also,—against themselves.

Not to mention that, if the master treats his slaves well, as he is bound to do by strict justice and his own interest, one sees no inhumanity in Slavery, but perhaps some ad-

vantages, which it were desirable might be generally found in the condition of free working people.

It is not impossible that upon both those heads these gentlemen have got up their cry,—not from any feeling or persuasion which they might call their own, but in order to copy, or make themselves the echo of, England, whose boast it is: "*No slave shall tread on English ground; but he is a freeman who touches it.*" And yet it is she who has planted Slavery here, as she has helped to plant, or increase and maintain it elsewhere. But even now some people would point to her the East Indians, whose condition, under her sway, seems to be no better than slavery: perhaps it is worse; since they labor in a great measure under its evils, but have not the poor consolation of its advantages: with the aggravating circumstance that their present condition, —of which they themselves are the best judges, and it is to be wished they had assured the world of what they think of it by no such unlawful evidence as they have,—is her own work from the beginning. But the Clockmaker,—and it is an Englishman who speaks through him,—has something to tell her about selling *White Niggers* at auction, tearing the wife from her husband, the children from their parents.

Lest I should be suspected to be a friend to Slavery, I have hinted before, and do now declare, that I am not. I possess no slaves myself, nor would have any; and if an estate to which slaves belong were by chance to fall upon me, they might account themselves freemen the moment I got possession of it. If one is allowed to express one's own thoughts and sentiments upon this subject, I would feel mortified, and regard as a sort of degradation, even to command and be served by people whom I could not socially look upon and treat as men, knowing that they are men. Perhaps many an Abolitionist does not go so far in his benevolence towards slaves, if it is true that he has their well-being at heart. These mine, however, are only personal sentiments, which have nothing to do with the matter

in hand; and some may possibly ascribe them to extravagancy of taste, on which the proverb says there can be no dispute.

But, touching Humanity and Civilization with regard to Slavery, a wide field opens before one's eyes, wherein one might expatiate and inquire, Whether we are more humane and civilized than Greece was at the time of Pericles, than Rome at the time of Augustus? Useless to mention Egypt, even when she was the Seat of Learning; or any of the Eastern empires up to the remotest antiquity, whose records have reached us. For, in all these places and times, as anywhere else before and after, there was Slavery; and in some of them, it must be regretted, in its most forbidding and shocking features.

There is no doubt but that Christianity has rendered man more humane and civilized, by clearing his ideas of justice and purifying his morals,—hence softening his manners in all his relations with other men;—which beneficial influence, spreading by insensible degrees from the individual into the family, and thence into larger numbers in all classes of society, did reach at last and affect the governing powers themselves, and has taken a great part in the very dictating their laws and moulding their institutions; whence, returning back to the individual, and being thus cemented, as it were, kneaded, incorporated with what is the ordinary life of the people, it could not but work in their habits and manners a great change for the better. In this sense, certainly, we are, beyond comparison, more humane and civilized than the best of the ancients. But if Christianity itself, in its purity and entireness, does not forbid Slavery, as has been shown, much less can this be accounted as forbidden by civilization, so far as that part of Christianity may be concerned which has entered and improved it.

It remains, therefore, that Slavery should be forbidden by Civilization left to itself, considered as the work of man, unconnected with, and a stranger to, those advantages

which it has derived from the Christian element. And, in this sense, one might ask again: Are we more civilized than the Greeks? more than the Romans? more civilized than those people would have been who should have composed the *Perfect Republic* of Plato, and the *True Republic* of Aristotle, could these have been brought into actual existence among men?

For, each of these philosophers framed his Republic according to that Ideal of Government which he had in his own mind,—namely, such as he imagined would be the best of all, if it were planted on earth, made to work and kept agoing,—but such as cannot be hoped will ever be realized among men, they being what they are,—and he endowed it with all the perfections that might belong to a government for its duration, security, tranquillity, and happiness. Yet both of them would have had slaves in their Republics respectively.

And it is to be noticed that Plato, if any of the Ancients, was a most kind-hearted man; insomuch that, a servant of his having highly offended, and deserving punishment, he would not chastise him himself, lest he should have passed the measure, but bid a friend do it for him, saying, "because I am much out of myself," *valde commotus;* the very reason why some other masters would have chastised him with their own hands.

It were perhaps not uninteresting, nor altogether impertinent to the subject in hand, to institute a comparison between our civilization and that of the Ancients, either in regard to the respective political institutions and governments, or even, leaving Science, Literature, and Art aside, in regard to refinement of manners in private or social intercourse, and, not to mention any things, in regard to delicacy of taste in all that relates to the enjoyment of material life, both in its necessities and in what goes by the name of pleasures and diversions. For it is chiefly, if not wholly, to this latter part people commonly apply the idea of Civilization, and measure this by that. True it is, however, that

the end of a city or community, for those who associate in forming it, is, as Aristotle expresses it, not so much *To live*, as *To live well*, or enjoy life.

But though such an inquiry might be not useless, yet still one should here abstain from entering into any detail, because it is unnecessary ; the more so, because, as it is certain that neither Christianity nor Civilization, as the world goes, do forbid Slavery, or command its abolition, so it is likewise certain that, even if they did, they could have no part, nor be so much as mentioned, for judging the present controversy. Its decision depends, not on the Code of Civilization, if there is any, not on humanitarian speculations, not on the maxims of the gospel itself, but solely on the Constitution of the United States of America.

And I have premised the foregoing observations, in order to free the subject of those embarrassments from foreign matters with which the contending parties seem to have overcharged it. They began with setting down the true terms of the question, *Slavery*, or *No Slavery*—To be, or Not to be; but then gradually, I presume, unintentionally, and by the mere force or complication of events, it has been so altered afterwards as not to be now recognized for what it was. What by exchanging words in the heat of the dispute, which has been often renewed under different aspects,—what by multiplying incidents at different times, each carrying a distinct character, and thus adding a new feature and knot to the question,—it seems that the contending parties have raised such a thick mist between them, that they can see each other no longer.

The worst of it is, they make its decision depend on those heterogeneous matters superadded to it, and yet keep on speaking so as though they had always in view its original terms, and relied on the Constitution for its adjustment, —whereas the Constitution, I think, has been lost sight of long since, and perhaps cannot decide the controversy, nor remedy the evil, as matters now stand.

But, whatever the question is, and whether the Constitu-

tion can or cannot decide it, yet certain it is that the parties can have no other judge for it between them but that instrument. They must set down the simple terms of their controversy, and then let the Constitution bear directly upon it;—for, whatever the Constitution shall pronounce, that is the Truth; and if it pronounces Nothing, Nothing is the just decision.

It is well, and a great point gained, that both parties agree to be judged by the Constitution. Those States who have withdrawn from the Union, not only professed to act by it in so doing, but, having formed a new confederacy among themselves, they adopted the Constitution to be ruled by it. The North, on the other hand, did and does appeal to the same instrument in order to legitimate her movements and the use of arms, calculated, she says, to call back those States into the Union, even by force; and then have the question decided by the Constitution.

But we have for this an explicit confession on her part in the above-mentioned speech of Mr. Seward, who says: "*Our forefathers provided, seventy years ago, for this present controversy;*" and then subjoins, "*This whole controversy shall be submitted to the people in a convention called according to the forms of the Constitution, and acting in the manner prescribed by it.*"

As to the manner here pointed out for getting a decision, however, I would take the liberty to disagree with him, in case the present controversy were in its own nature and essence different from those which the Constitution provides for and commands should be submitted to the people in a convention. For, if it were different from them, we must needs conclude that the people in a convention, or out of it, can do nothing to settle the present controversy,—I mean, according to the Constitution.

Suppose the question turns upon the very principles on which the confederation was founded, on which the Constitution itself was built and stands, the one party asserting, the other denying them: in this case, the question could

never be the subject of an amendment, nor be referred to the people. Either it has been already decided by the Constitution in express terms, or by necessary implication, which is the same thing, or it never can be decided by that instrument; so that, if the question were yet to be determined upon, then another judge ought to be found, and another way be resorted to, but no more from the Constitution.

In such a case, the parties might indeed agree and settle the matter between themselves; they might even do this through a convention of the people, and make their agreement a part of the Constitution; but not for that could such part be regarded as an amendment made according to its forms and in the manner prescribed by it. It would be a new thing altogether,—namely, a piece added to the Constitution, resting, as on its basis, not on any provision to be found in that document, but only upon the consent of the parties,—a consent presently given in a new matter with knowledge of cause, and by their free will, independently of what is required of them by the Constitution. It would be a new compact.

But that the North as well as the South remits her cause to the judgment of the Constitution, I may appeal again to the testimony of Mr. Lincoln also. In that short speech which, while on his progress to Washington, he made at Steubenville, on the 14th of February, 1861, he proposed to his audience several significant questions, but had no time to have them answered properly and distinctly. If one might venture to give an answer to such questions as were then left without any, and explain those answers which he seems to imply, or only hints at for want of time, I would respectfully submit them; and I feel the more encouraged to do so, because almost all of them resolve themselves into one. He says:

"*I believe the devotion to the Constitution is equally great on both sides of the river.*

"*It is the different understanding of that instrument that causes the difficulty.*

"*The only dispute is, What are their rights?*"

These cannot be matter of dispute; they being, as they must be, positively determined in the Act of Confederation and the Constitution. Nor does the South claim any new rights at present which she never claimed before, and the North knows them. They appear to be,—in the States, independence and sovereign power, except in what they themselves have delegated to the Federal Government to exercise it for them; in the citizens, enjoyment of personal freedom, life, and property,—in all, equality in power and obedience to the laws of the confederacy and the Constitution.

"*If the majority should not rule, who should be the judge?*" The Constitution, or none.

"*Where is such a judge to be found?*" In the Constitution, or nowhere.

"*We should all be bound by the majority of the American people.*" Softly here. This is a new programme, or the proposition must be carefully distinguished. We should be bound by the majority *in all things* that are provided for by the Constitution, or agreeable to it. We should be bound by the majority *in nothing* against the Constitution; for even the majority is subject to the Constitution.

It is manifest that in all things which are contrary, or not agreeable to the Constitution, neither the majority, nor the seven eighths, nor even the whole number but one, can pretend to rule. If they act otherwise, they may indeed oppress the one, but not rule by the Constitution, which is the only thing here sought after. If all the States but one were put together in one scale of the balance without the Constitution, and the single one State remaining were put in the other scale with the Constitution by her, she alone outweighs by far all the other States collectively taken, even though they were fifty-four instead of thirty. It might be said of her what the Scripture says of Ishmael, "*The hands of all against her, and her hands against all.*"

"*If the majority should not rule, then the minority must control.*" This seems not exact, nor is such a consequence necessary. Nay, it is impossible for the minority to control. The minority would make indeed a great blunder in pretending, or so much as wishing, to rule the majority. To say it more properly, such a thing never could by any means be accomplished, and is a contradiction in terms. Visibly, in such a case, the one should no longer be the majority, nor the other the minority; and the very names ought to be reciprocally exchanged between them. When power is given or reduced to number, it is plain that the more covers the less, or the greater draws the smaller after it. But then there may also reign, not law, nor reason, but force; which is not the meaning, nor could be the intention of the Constitution.

I repeat, however, there is no necessity for the alternative proposed by Mr. Lincoln,—there being a middle way open for escape. If the majority intend to rule because they are a majority, and not according to the Constitution, then the minority has nothing left her but to withdraw from the Union, and leave the majority to do as they please against the Constitution.

But in this mighty controversy, where the Constitution sits judge, the North on the one side, the South on the other, standing before it, I do not presume to defend or accuse either party. I will have the honor, as clerk, to write down the proceedings.

First: Does the Constitution allow Slavery in the States, whether old or new?

Second: Does the Constitution allow Slavery in the Territories belonging to the Union, or does it leave to Congress to determine upon it?

Third: May any State secede from the Union, and so remain by herself, or does the Constitution give power and means to the other States for calling her back into the Union, even by force?

If I could speak anything of mine, I would say, as it

appears to me, that the Constitution has already decided the first and second questions both. But, since some of the Confederate States have actually seceded from the Union, it follows that the third question must be treated and settled before any of the preceding ones can be taken in hand. It is useless to speak of slavery, in regard to the Union, with States who are not in the Union, nor intend to be. Though willing to appear and be judged by the Constitution in this trial, those States account themselves out of the Union nevertheless; and so, perhaps, for the time being, must they be regarded by us also.

The North, it is true, looks upon them as in a state of revolt against the Federal Government, calls them rebels, and declares she will treat them as such. But, not to say that the use of these expressions seems proper to designate *subjects*, whereas the States who form this Confederacy I have always heard to be all and each of them *sovereigns*, which means *equality;* yet certain it is, that whilst they are and profess to be out of the Union, they cannot by any means be accounted so as if they were within it. And more especially must this hold true in the present judgment, whose end it is to define just this question: Whether those States had a right to secede, as they contend; or whether the other States have the right to make them, though unwilling, re-enter the Union, even by force, as the North affirms?

The South, represented by the seceding States, does here personate the Defendant; the North personates the Plaintiff. In conformity, therefore, with the universally received practice, dictated also by reason and necessity, it is the North that must speak first, and make good her charge against the accused.

What is the offence those States have been guilty of, in seceding from the Union? What is the penalty assigned to it by the act of Confederation, or the Constitution? and from what part of this instrument does the North think

herself authorized to inflict it upon them? The North must say it.

The preceding blank I may call a *waiting* page, wherein the accusation and argument of the North should have been stated. So in Mr. Sterne's Tristam there is a *thinking* page, where the thread of the discourse is suddenly broken, and the reader left to his own meditations on what the writer would not, or could not, express: which page, if I remember well, says more and better than many another written by him. I wish the waiting one above were not in the same relation with mine.

As the North, however, has said nothing on any of the forementioned points, I can write nothing, of course: and professing myself ready to report whenever she will speak on the subject, I must stop for the present, and close proceedings; which I confess I am loath to do, and deeply regret, that, after such preparations, the trial has so unexpectedly come to an end even before beginning. Thus the foregoing pages must go for nothing, or the exordium is the whole composition, as it is not followed by that which it was designed to precede. And if any have had the patience to read so far, it is not improbable they will here exclaim:

"Parturient montes, nascetur ridiculus mus!"

which exclamation, though uttered against me, I could very well turn to my credit; as if what precedes had given them reason to expect something afterward which might have interested them. But, to give honor to truth, which should ever reign above all things, with all due deference to their penetration and judgment, I would respectfully assure them that any such anticipations would have been frustrated.

Could George Washington, and his associates in founding this Union, be now recalled to life, and assembled together, I imagine a Bostonian might ask them this question: "*Do you approve of slavery?*" To which Washington, after looking at his companions, who nod assent, and wish

him to speak for all, would give answer: "*Yes, we do.*" And so did we in the beginning, when States entered and were received into the Union, in which slaves were accounted part of citizens' property. We knew it well. Had we said nothing anywhere upon this matter, yet the fact of guaranteeing to the Confederate States and their citizens the right of property, should be enough for you to conclude that we approved of Slavery.

If we had thought of condemning or abolishing it, we should have made of it an express mention; that is, if the slaveholders had consented to it. For they had a perfect right to refuse entering the Union, if that condition had been required of them, as they would have to withdraw from it whenever the same condition should be offered to them, if they did not like it. Perhaps I should have said that in such case no confederation at all would have been formed, almost all the States then met being slaveholding.

This is a complete answer to your question, which you might have spared to ask, we having so long ago anticipated, and in so solemn a manner answered it. Read the Declaration of Independence, which is the basis, and then the Articles of Confederation and the Constitution, which are the building raised up and developed on that foundation.

Bost.—But Slavery is unchristian, inhuman, barbarous, not becoming a civilized people; and every trace of it should be cancelled from the face of the earth.

Wash.—All this may be so; but not by the Constitution. We thought ourselves Christians, humane, and civilized enough; at least not much below the standard of those who are reputed to be so; but Religion we expressly excluded from having any part in the government; and as for those other things you mention, we meant not to touch, nor interfere with, them, leaving everybody perfectly free in regard to conscience, opinions, and sentiments of any kind, provided they were not used to destroy our institutions or endanger the peace of the community. Any such attempt we provided how should be repressed; and if we had not,

it should be repressed notwithstanding. The power of doing it is necessarily implied, and may be as lawfully used as any express one, by those who at the time of the occurrence hold the reins of the government; for their duty is to enforce as well as to execute her laws.

We did not set up for reformers to correct what we thought defective in Religion, Morals, or Society: we left things as we found them; our only purpose (and that purpose we have clearly expressed) being to establish a government, in which to every citizen should be secured the peaceful enjoyment of his political rights of Freedom, Life, and Property.

Bost.—And we intend to maintain what you did, cost what it will. But, leaving all things as you ordained them, we would only distinguish property, and reduce it to its proper bounds, separating from it that portion which consists in men. This canker of Slavery takes away from us even the enjoyment of our free institutions; it makes us feel ashamed to call ourselves a free community. Some of us even thought that you disapproved of Slavery, and that, in our endeavors to abolish it, we were carrying out your intentions.

Wash.—You surprise and astonish us! We ourselves were not ashamed of Slavery; and yet we called ourselves free, and gloried in the appellation. It is we who declared ourselves Independent.

The distinction which you would introduce into property does not come from aught we did, nor from the Constitution. This is the Instrument, and the only one, which you must resort to in all doubts and controversies wherein your political rights, or those of your fellow citizens, may be involved. It is good enough to answer ordinary purposes and solve all questions thereupon: it certainly solves the present against your distinction, for it makes none. And before you attempt to make any in this, or any other subject, that may refer to the fundamental principles on which we planted and organized the government, you must first

renounce our paternity, and destroy the Constitution which we signed and bequeathed to you, in order that you should preserve it inviolate.

Not a few of your party have indeed renounced us and the Constitution both, long since: they have called this Instrument and the Union a lie, an imposture, and worse; and have gloried in it. Some one has said that "*there is a Higher Law than the Constitution;*" as if, whatever is done, even in spite of the Constitution, to abolish Slavery from within the United States were justified by that Law. To this we simply say, that there is no Higher Law than Justice, and it is on Justice the Constitution is founded.

But, this Law being so high, it is not impossible these people cannot see it distinctly; or, perhaps, while mounting to reach and apply it, they become giddy or leave Reason behind them. To prove this, a simple consideration is sufficient.

If they act in this matter as citizens of the United States, as they profess to do, they cannot even think of abolishing Slavery within the Union, because its citizens are bound to respect the Constitution and obey its provisions, including whatever there is in it which relates to Slavery. Otherwise they must give up all claims to being called reasonable; for, to pretend to act by the Constitution, or borrow from it the means and the power to destroy it, is more absurd than language can express.

If they act, not as citizens of the United States, but as men who think themselves authorized by the general Law of mankind; certainly, they may, then, lay the Constitution aside; but equally certain it is that, in order to execute that Law in any State of the Confederacy, they must commence by making themselves strangers to her. In other words, they must get out of the Union first.

It is only thus they can place themselves, so to speak, on free ground; and only then might they undertake to treat with the slaveholders as men with men, no more as citizens with fellow citizens. But, so long as they stay in the Union, and call themselves citizens of the United States,

there can be for them no other Law but the Constitution to determine their reciprocal rights and corresponding duties as well as the measure and use of them, in all matters which in that Instrument have been contemplated and provided for. The Union, as it is, cannot exist without the Constitution. Either both, or neither.

Will they mix the qualities of citizen and man together, and act in both capacities; holding, as it were, the Constitution in one hand and the alleged Higher Law in the other? But, these being, as they say, in opposition to each other with regard to Slavery, the necessary result of such a mixture, if it could take place, should be that the energies of both would be paralyzed, and all things must consequently remain, within the Union, in the same condition which they were in before.

And since what these people have said and done during so many years, conclusively shows that they have either overlooked, or been unable to see, things so clear and simple as these, which to any capacity must appear self-evident; how can they be thought justly to comprehend, appreciate, and apply the alleged general Law of Mankind in its details; the right in the Slave to Liberty; the duty in the Master to make him free; and, above all, their own right to compel the Master to do it?

We cannot, on this occasion, forbear doing justice to those among the Abolitionists, who, in denouncing us and the Constitution, on account of Slavery, did also plainly advocate and urge the separation of the North from the South as a necessary measure. For this they have been held up almost as madmen; but yet, although we cannot approve such separation, and less what they intimated to be their intention of doing afterward, we deem it only justice to say that, so far as their recommendation to break up the Union may be concerned, they spoke like men of sense, and were consistent with themselves.

And who prevented the Free States from openly declar-

ing that they detested the Union and the Constitution; that their abhorrence for Slavery is so intense and deeply rooted, that any further connection with the Slaveholding States was absolutely impossible, and therefore that they must part? This is, on the contrary, the only thing they should have done when they first began their attacks against the South.

I said "*the only thing*," because, when they should have parted, there should they have stopped, and not assumed upon themselves to abolish Slavery from the South. In abolishing it from within their own limits, they have used their right; but can they also go to a stranger and bid him do the same, or do it themselves, if he will not? If they have, and rely on, material power, this is a very good thing when connected with right, and does injury to nobody; whereas any movement of the North tending to abolish Slavery from the South cannot be made without manifest and manifold injuries to the slaveholders. The very attempt of meddling in other people's affairs, is itself a great injury. Indeed, there is among men no higher Law than Justice, and the first part of Justice is to mind one's own business.

Therefore, if you intend to make inquiries as citizen of the United States, we are willing to hear and answer you; but, if your questions turn outside the Articles of Confederation and the Constitution, we must decline both to hear and answer, although we might know how to do it.

Bost.—It is as citizen of the United States I appeal to you; for we intend to maintain the Union, and obey the Constitution; but, with regard to Slavery, times are now greatly changed from what they were before; and so are the opinions of a large number of men even in the United States.

Wash.—But Truth is not, nor is the Constitution changed; and, we believe, never shall be. Cease to exist it may; but not be altered in any of its substantial parts.

And you lay upon us an unjust charge by saying that, in your efforts to abolish Slavery, you interpret our sentiments and design to carry out our intentions. We never had any such intentions. How could we think of abolishing Slavery, when we received into the Union Slaveholding States, and accounted slaveholders citizens of the United States? Nay, when almost all the States who formed the Confederation were slaveholding? But for them, there would have been no Union.

Besides, you make us contradict ourselves, which figure we do not like to make before the world. And we deserved the less such treatment at your hands, because you make our supposed intentions, not only stand against, but overrule our words and solemn facts, resulting from all we did, and, above all, from the Constitution. This, I repeat, is the Instrument which binds all of you citizens, in whatever concerns your political rights and relations with one another. This only you must look and firmly stick to.

Whatever might have been our personal sentiments; whatever might we have said or written about, or even against, Slavery, could not serve your purpose. It were confounding matters separated from each other in their very essence, to make use of our intentions and personal sentiments, even if known, as arguments to annul any part of what we have established in the solemn act which we have declared to be the bond of Union and the measure of the reciprocal rights and corresponding duties between the States and between their citizens respectively.

You could not suppose that we thought, or desired, to abolish Slavery, seeing we expressly permitted the importation of slaves for twenty years, running from the date of the Constitution. If for delicacy's sake, out of regard toward some member of the Confederacy, we chose not to call them slaves, we designated them unmistakably by styling them *imported persons*, which appellation is fully equivalent to the word *slaves*. No freeman can be imported; but one may, who is regarded as property, and has a price. And

when Congress three years afterward proposed the form of a schedule for the "*distinct enumeration of the inhabitants of the United States*," one column in it was assigned to slaves. But that very delicacy which induced us to suppress their name is a further evidence of our positive determination in what we ordained concerning them.

If we limited their importation to twenty years, and authorized Congress to prohibit it afterward, we meant that Congress might forbid it, not that they must. And when that power should have been made use of, yet those slaves who might have been previously imported, or existed already in the United States, and their descendants, ought to have remained in their condition.

And where we provided for the proposing and making amendments to the Constitution, we did expressly, though it was unnecessary, reserve this importation of slaves, forbidding it to be the subject of amendment, should any be made "*prior to the year* 1808." So far we were from wishing to abolish Slavery.

The same thing we plainly declared when we ordained, "*No person held to service or labor in one State under the laws thereof, escaping in another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.*"

Bost.—Far from delivering up such persons, we have enticed them to leave their master; taking them away from him, as it were, at his very house. And some one having once escaped into our city, and a claim being duly presented in behalf of his master, our people rose up to his rescue in great tumult, and a man, who had him in charge to safely conduct him to his destination, was killed by the mob.

Wash.—Were they not punished for it? Otherwise we should conclude the doing of the mob to have been connived at, perhaps encouraged and instigated, by those who are not called mob.

The above recited clause obliged you to give up the slave, even though by an express law in your State you might otherwise have had the right to refuse his delivery. This is the clear import of the words, "*in consequence of any law or regulation therein*," which must be understood as if they had been expressed in the usual phrase, "*any law or regulation obtaining therein to the contrary notwithstanding.*" By this the Constitution did *ipso facto* declare null, and make void, all laws whatever which might have existed before, or be enacted afterward, in any particular State, whose observance might have been an impediment to the prompt execution of what that clause prescribes.

Hence you may know the purport, and characterize the nature, of "*The Personal Liberty Bill*," which should with truth and propriety be called "*The Open Defiance to the Constitution Bill;*" by which the Legislatures of your State and that of Vermont forbid the capture of a fugitive slave who might escape into either of them, and inflict a heavy penalty in money and imprisonment on "*any Judge of any Court, any Justice of the Peace, or other Magistrate, any Sheriff, Deputy Sheriff, High Bailiff, Constable, or Jailer, or any Citizen*," who should aid in the delivery and restoration of a fugitive slave to his master who claims him.

While doing this they use the address of sparing the name of the Constitution (out of regard to us, we suppose), and profess to make their laws against only the acts of Congress; as if the acts of Congress in this particular could be anything else but a necessary provision to establish the mode and means for securing the execution of what the Constitution has so positively and expressly commanded. I omit to say that the acts of Congress themselves are not nothing.

But to unmask them, and discover the real value of their respect for us, it were enough to divide a page into two columns, and print

IN THE ONE,	IN THE OTHER,
FROM THE CONSTITUTION.	FROM THE STATE LAW.
"No person held to service or labor in one State under the laws thereof, escaping in another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."	*"No Court of Record in this State, nor any Judge thereof, no Justice of the Peace, nor other Magistrate acting under the authority of this State, shall hereafter take cognizance of, or grant any certificate, warrant, or other process . . . to any person claiming any other person as a fugitive slave in this State."*

We wonder how it was that the other States did not, by solemn act and proclamation, strike Vermont and Massachusetts both out of the Union, and erase their names from its records. The enacting such laws was more than enough to deserve it.

Bost.—This, however, may regard the States who first formed the Union, not those that have been admitted into it afterward, or may be admitted in future. Much less can it regard the Territories belonging to the Confederation. It is only from these we do now intend to exclude Slavery, permitting it to remain where it is in the States.

Wash.—There can be no difference in this respect between the old and new States, save that some have entered the Union at its first forming, others afterward at different times, which is no difference at all. The same disposition equally applies to every one of them, and their rights for all intents and purposes must be the same in all; because there is in all the same reason, all having the same end in entering the Union: which is to partake of its common benefits. You cannot but have observed that in the petitions or bills presented to Congress for the admission of any

new State, there is a clause expressed in these words, or others of similar import, "*upon the same footing with the original States in all respects whatever.*"

Hence it is plain that the New as well as the Old are and remain sovereign States. The petition or bill for admission is an implied declaration on their part of the surrender or delegation into the Federal Government of so much of their independent sovereignty, to be used by her in their name and for their benefit, as is necessary for forming part of the Union; as is equal to that surrendered and delegated to her at its forming by the Original States for the same purpose.

By necessary consequence, the citizens of the new States are as much citizens of the United States as the citizens of the old ones; with the inherent right, among others, to go into any part of the Territory belonging to the United States, there settle and freely use their property in the same manner and with equal security, as they may in their native States. You can no more exclude Slavery from the Common Territory than you can from the Slaveholding States.

Bost.—But Congress may, the Constitution expressly ordaining, "*Congress shall have the power to dispose of and make all needful rules and regulations respecting the Territory and other property belonging to the United States.*"

Wash.—From which you infer that Congress are empowered to exclude Slavery from the Territories, or plant it there, if they so please! But this inference does not descend from the words of the clause which you have recited: to give them such meaning is, on the contrary, a great and evident abuse of interpretation, contrary alike to sound reasoning and to what we have clearly expressed both there and elsewhere.

Our language, in that clause, is as manifest in its import, as it is dictated by necessity. We could not have spoken otherwise. The Territory belonging, not to any particular State, but to all the States, we could not have con-

ferred on any one, or ones, of them the power of disposing, or making regulations about it, but must have given it to all the States united; namely, to Congress, which represents them. As a private master has the power of regulating, and disposing of, his individual property, so must the same power about common property belong to the common master: such, in the present instance, we recognized to be the United States, considered together; with the difference that the private master may do as he lists in disposing of his individual property, having nobody to care for, or consult about it, but his own will; in him the whole operation begins and ends: whereas the common master, or rather the representative of the several masters of the common property, must, in disposing of it, necessarily consult the right, will, and interests, not of one portion, but of every one of the several masters it represents in common.

Its regulations, therefore, must respect inviolate the rights of each of them. As they are on common ground, so must they be made for the common benefit of all, and equally affect all without distinction. Otherwise it were not to dispose of, or regulate, but to usurp the common property. The greater number of the co-masters, however large, cannot attempt to disregard, or deny the rights of the few. If such could ever be the case, the surest way to lose one's property would be to put it in common with others, to be disposed of as the greater number of the co-masters think fit.

Therefore this power, vested in Congress, can never be understood as enabling them to destroy, or abridge, the rights which belong to any State, or citizen, on the common property; yet this would be the necessary conclusion to be arrived at from that clause, if Congress had the power to legislate for or against Slavery in the Territory. To speak only of the latter case, it is manifest that Congress would put at naught the rights of the Slaveholding States and their citizens in that part of the common Territory, whence Slavery should be excluded. Now, that Congress are en-

abled in any of their measures and enactments to subvert the right of any State or citizen, by virtue and in consequence of the use of that power which we vested in them by that, or any other, clause, we never said nor meant; it being equally far from our words and our intention.

Not to say that in that clause we consider the common Territory in no other light but that of property; as the subject itself required, and appears, from the unbroken, not to be broken, connection of the words "*respecting the Territory and other property belonging to the United States.*" These words are uttered, as it were, in one and the same breath, for the same meaning and purpose; and no interpretation, which is not evidently unjust, can possibly disconnect them, or induce any distinction or limitation between them. All which manifestly restricts the power of Congress to legislating respecting the Territory only as property; and this forbids them to legislate respecting the persons who may settle in it. Wherefore they cannot legislate for or against Slavery in any settlement in the Territory, because persons, whether bond or free, are not the property belonging to the United States.

They might refuse to sell part of the Territory to foreign slaveholders, and not permit them to settle there with their slaves; but they cannot hinder from going thither a slaveholder who is a citizen of the United States, a member of the community which they represent, and by whose authority they act.

But, that Congress have no such power, is made evident by the very nature and destination of the Territory. As this is unquestionably a part of the Public Lands, so it is unquestionable that the Public Lands are "*to be considered a common fund for the use and benefit of the United States, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever.*" With this express declaration and condition have those lands been ceded and conveyed to the General Government by the several States to whom they respectively belonged.

Nay, the very resolution of Congress, dated October 10th, 1780, which is anterior to these cessions, and in consequence of which these cessions were made by the several States afterward, does openly declare "*That the unappropriated lands that may be ceded or relinquished to the United States by any particular State, shall be disposed of for the common benefit of the United States.*"

The same thing must be said of any other portion of the public lands which the Federal Government has acquired by treaty or otherwise; for they were bought with the public money.

And Henry Clay, from the Committee on Manufactures, in his report on the public lands, presented to the Senate in 1832, says upon these words of cession: "*Thus by the clear and positive terms of the cession, was a great, public, national trust created and assumed by the General Government. It became solemnly bound to hold and administer the lands ceded as a common fund for the use and benefit of all the States, and for no other use and purpose whatever. To waste or misapply this fund, or to divert it from the common benefit for which it was conveyed, would be a violation of the trust.*" You are not ignorant that Henry Clay was what you call a Republican, that is, of your party; although both the name and the idea conveyed by it has undergone some alterations afterward.

However this is, you may now prepare yourself to answer the question: *Whether that part of the public lands, whence Congress should exclude Slavery, would be disposed of for the use and benefit of all the States?*" How can it be, if the citizens of the Slaveholding States are refused entrance and settlement in it? There is no need to advert that it is the citizens who form and represent the State, and consequently that a place in which any citizens are not permitted to enter and settle, cannot be said to be disposed of for the use and benefit of the State to which they belong. The territory, in such a case, would manifestly be appropriated for the use and benefit, not of all the United

States, but only of that portion of them which is termed the Free States, to the exclusion of that other portion which is styled the Slaveholding States.

We believe it to be uncontradicted that Congress have not the power to do this; unless it were maintained that Congress have the power to violate the public, national trust.

As the territory, then, is the common property of all the States, and consequently of the whole people of the Union, so it is plain that the whole people of the Union, and every single individual in it, may go and settle in the Territory as there is room in it—any citizen from the South, as any citizen from the North. Neither Congress, nor the whole rest of the Union, can exclude him, because they cannot deprive any single State of the right of being as much the owner of the territory as any of the other States. You pretend to exclude from the territory the slaveholder; and we should like to hear whence comes to you, or any number of you, the right of excluding him, he being as much master of it as you are.

Bost.—It is not him we intend to exclude; it is his slaves.

Wash.—This is too thin a veil not to be seen through; although its interposition might possibly be enough to prevent some people's sight from piercing beyond it. The truth, however, and the proper language to express it, is, that you exclude from the territory, not the slaves, but the slaveholder, the citizen. It is in this light you must consider the nature of your intention and purpose; and it is by this rule you must measure its value.

To say it in other words (for it is the clearest things that must be repeated when they are not understood, until they are), you deprive of the right to settle in the territory, not the slaves, but the slaveholder,—the slaves being brought thither by him, because they belong to him,—and, what is more to condemn you, you recognize and confess that they belong to him. You only say that they should not belong to him. But this, as you cannot but see, reaches the slave

and the slaveholder at home in the old States as well; and, not to say anything else, it is a quite different question from excluding Slavery from the territories. It is a question which you must treat of in some academy or school, but not in the political arena, and much less in Congress—the Congress of the Government of the United States of America,—unless you intend to overturn it. Even less can you make the measures and resolutions of Congress, directly or indirectly, bear upon Slavery, as if that question belonged exclusively to the subject of the common territories, and moreover had been decided in your favor already.

In his speech on the Oregon bill in the Senate in 1848, your Daniel Webster contended that the law which accounts slaves as property in a State is "*purely local;*" hence he argued that out of the State's limits such a law does not exist; and, consequently, that there is no injury done to the slaveholder if, when he goes with his slaves to settle in the territory, his property in them is denied on the universal law of nature. To make good this conclusion, he appealed even to that principle of the civil law by which a man is presumed and pronounced free, unless he is proved to be a slave. He said well, in beginning that speech, that he was not going into metaphysics, for he went into sophistry.

It seems hardly credible, however, that he, or anybody else, could fail to see this plain fact, that the laws of any State, though they are peculiar to it, yet are, not *local*, but *general*, as far as the Union extends, once that their validity and operation throughout the United States has been recognized and secured by the Constitution, which binds them all. They may be local in their origin and enactment, but are common to the whole Union in their force, execution, and effect, which, to all intents and purposes for the present matter, is just the same thing. And it was precisely on this account that their validity and use in all the other States was expressly guaranteed by the Constitution. The place where the slaveholder goes into is as much in the

Union as his native State. They both are subject to the laws of the Constitution.

Take the Articles of Confederation and the Constitution away, and then even each particular State may enact against Slavery any law she pleases. She may prevent slaves from entering her limits, or even invite them in by proclamation, and, when there, assert them free against their masters. I said she may, not that she does right. On the contrary, she would openly violate the law of nations as well as of common justice, for which the interested States, to whom so great an insult is offered, and others also, might justly wage war against her. A State who does so little respect the rights of others,—who places herself in the position of such an open defiance before the world,—deserves to be swept away from the face of the earth, as a public nuisance. This, however, is not of the present purpose. But, so long as those two instruments are the essence, the form, and the rule of the United States Government, surely, the slaves belonging to a citizen in any particular State, are slaves also in all the other States and the common territories of the Union.

Did Webster believe that the common territories are not in the Union? But they must be in the Union. So far as law is concerned, they can be nowhere else, if it is true that they belong to the United States. There is no other source, but their being in the Union, from which might flow into Congress the power of regulating and disposing of them,—that very power, especially, which he was then endeavoring to assert to Congress.

The slaveholder who leaves his native State in order to settle in the territory, does in reality no more than move from one point of the Union to another point of the Union: while in either, he is in the Union. To say that the law which accounts him the owner of his slaves in the place whence he starts, ceases to exist out of its confines; that in the places through which he passes, or in which he settles, within the United States, the validity of that law may be

questioned, or the law itself annulled or disregarded, so that his slaves become, or may be declared, freemen; is one of the strangest errors which your statesman, if he believed as he spoke, might have fallen into.

Add to this that the slaveholder, when he settles in the territory, not only is in the Union, which is reason enough why the laws of his State should be respected, but he is also in a place acknowledged to be common property,—of which, therefore, he is as much the master as Webster himself might have been. Nay, he is on his private property, since he has bought for his money the place where he settles. Whence comes it, then, that on his own ground he loses his property?

Nor is his argument more solid when he invokes the presumption of the Roman law, that a man is to be declared free if his bondage is not plainly shown. By the terms of his own statement he defeats his conclusion. That presumption is very true and just, as it is founded on the clearest dictates of nature and reason: A man is to be pronounced free by any judge, so long as he is not clearly proved to be a slave. But this rule must, and may be applied only to cases wherein the condition of the man is doubtful; as, for example, when his pretended master affirms him to be a slave, he asserts himself a freeman,—neither proving his statement conclusively,—the man is free. But where is the doubt in the present instance? On the contrary, all is certainty and positive demonstration in it; and all from the Constitution.

He admits that the slaveholder owns his slaves as property by the law of his State; but if his State recognizes his ownership, who can in the United States call it in question? Should any doubt be raised, or any objection made to him upon that matter, the slaveholder would have nothing else to do but to provide himself with a legalized certificate from the competent authorities of his State, that the persons whom he brings with him are his slaves. Such a document secures his property to him anywhere in the

United States, the Constitution expressly ordaining: "*Full faith and credit shall be given in every State to the public acts, records, and judicial proceedings of* EVERY OTHER STATE." For the words, "*in every State*," must of necessity be understood equally to comprehend "*every place*" within the Union; and, certainly, we would have added to them "*and territory*," could we have anticipated the existence of territories in the sense you now attach to them.

If on the personal condition of a man in any State the question arises, whether he is bond or free, it is a matter that affects master and slave, and must be decided between them by themselves, or by a judge, on demand of either. But that the people of other States in the Union should *motu proprio*, and by their own authority, erect a tribunal in the territory, constitute themselves judges between the master and his slaves, when he goes thither with them to occupy his own ground, and say to the slaves, "*You do not belong to this man; you are free:*" and to him, "*You are not the owner of these men; they are free by the general law of nature*,"—a bystander might perhaps be tempted to doubt whether those people are in their senses. He would naturally imagine that they should have spoken, not unbidden, but requested, and not from the law of nature, but from the law of the Constitution, which mutually binds them all.

A great motive insisted upon for excluding Slavery in the territory, and mentioned also by Webster in that speech, is, that where slave labor is employed, there free labor is discouraged, because a freeman must, in a manner, feel himself degraded to work in company with slaves,—which, to a certain extent, is true, when freemen are obliged to work side by side with slaves, and are engaged in the same occupation. All this, however, would be matter of expediency and feeling rather than of right, and therefore it never can be a reason why rights based on principles of strict justice, and secured by the Constitution, should be destroyed.

Besides, such a case of promiscuous working never happens, or is extremely rare. When it takes place, it must be

the effect of very extraordinary circumstances, and therefore cannot be alleged as an argument against the slaveholder to deprive him of his right. On the other hand, those very circumstances which give occasion to the uncommon occurrence, are themselves able to reconcile the free working man to his present necessity.

Not to mention that such a reason, if it could be admitted, would prove too much, and therefore proves nothing, as the known proverb says. For we should thence conclude, that Slavery ought to be excluded from the slaveholding States also, there being in them free working men besides slaves.

But in what refers to men, and is their own work, as nothing is so good that might not be better, so nothing is so bad that might not be worse. And whenever events from various causes should happen so to conspire together in any given case, that in the results produced by their combination there is something which might seem amiss, or which one might wish had been otherwise, then you must remember that this is our Union, and this the Government of the United States.

The truth is, Congress never should have touched upon this matter, nor ever allowed the very name of Slavery to resound in their halls. Any petition or motion relating to it they ought to have, I do not say denied, but not received. They should have imposed upon themselves and publicly proclaimed, concerning Slavery, that same law which the Academy of Sciences at Paris, and the Royal Society of London, imposed upon themselves, concerning the *Quadrature of the Circle*, when they informed the world that they would not so much as open papers sent them purporting the solution of the great problem.

With this difference, that those learned bodies were resolved not to read these papers with the only view of not wasting time, upon the persuasion, forced on them by the long experience of so many ages, that any such paper could not accomplish what it should promise; whereas it is from

sheer necessity Congress must abstain from admitting petitions, much more discussions, on Slavery, because it is a subject which does not belong to them; on which they have no business, as they have no power, to treat. It is forbidden ground; they must not tread on it.

The right of petition in citizens has been asserted, as well as the duty of Congress to receive any memorial whatever, in order to grant it, if right, or reject it, if unjust or unreasonable. All this, to a certain extent, may be true; but when the petition *prima facie* shows that it turns upon a matter of which Congress have not the power to take cognizance, then, instead of rejecting it after discussion and hearing, it is their duty not to notice it at all. The very doors of the assembly must be shut to prevent its entrance. And this holds true more especially in regard to Slavery,—this being a matter which not only is altogether foreign to their attributions and functions, but may only be calculated to stir up party passions, and bring confusion into Congress first, and thence into the whole country.

If a number of citizens had their heads suddenly turned, and presented to Congress a memorial praying them to devise a plan for quietly changing the form of this government from republican into monarchical, as more uniform and better conducive to the public good,—if, as the Jews said to Samuel, when they were tired of being governed by the judges, those imagined memorialists should say to Congress, "*We want a king*,"—would any member of that legislative body resort to the right of petition in citizens or the duty of Congress to hear, discuss, and reject it? But they cannot so much as begin to speak about it. If they could, they should have the power to grant as well as to reject. The people of this Union may indeed by their consent overturn the republic and make of it a kingdom, and even the members of Congress might join and help in the operation; but this they might do only as private individuals,—never as members of Congress—the Congress created by the Constitution of the United States.

Just as much right have they to speak of Slavery in States or Territory: whereas it seems, on the contrary, that Slavery has been for a long time the all-absorbing matter of Congress,—the common mark, as it were, for all the members to shoot at, if they only would try their skill; and few are they who did not. There is scarcely a motion or bill presented or discussed there, scarcely a measure carried, but is interwoven with Slavery, or has in some shape or other some relation to it,—although, its own nature and essence considered, it could have none.

Of all the petitions addressed to Congress on the subject of Slavery, the only one which has some consistency, and seems less liable to reproach, was that presented in April, 1850, to the House of Representatives by one of its members, and read: "*We, the undersigned inhabitants of Pennsylvania and Delaware, believing that the Federal Constitution, in pledging the strength of the whole nation to support Slavery, violates the Divine law, makes war upon human rights, and is grossly inconsistent with republican principles; that its attempt to unite Slavery in one body politic has brought upon the country great and manifold evils, and has fully proved that no such union can exist, . . . respectfully ask you to devise and propose, without delay, some plan for the immediate, peaceful dissolution of the American Union.*" In securing to the citizens the rights which they had on their property, we had indeed no intention to violate the Divine law, or commit any of the wrongs mentioned by the petitioners; but, though false might have been their motives, and their views mistaken, they did at least recognize this truth, that, while the Federal Constitution stands, Slavery cannot be touched nor attempted against; and, consequently, they pray for the immediate dissolution of the confederacy. There is some sense and consistency in that. But to deny the use of their property to citizens of the United States, while the Union is in existence, and profess to support the government, to respect the

Constitution, nay, to act by its authority, (to say nothing of its injustice and illegality) is one of the greatest absurdities a man may be guilty of.

But the debates in Congress which have turned on Slavery as their subject-matter, are so numerous that only to count them would make Archytas mad. They seem to have engaged for many years the whole attention and energy of both Houses. And what good did come from it to the country? or what evil did not? The time that has been spent upon it might have been much better employed in other matters, or even let pass on nothing. We doubt not but that the public would have been greatly benefited if, during the congressional debates on Slavery, either principally or incidentally, both Houses had been closed and wholly silent. This has been the principal, if not the only, source of the many evils under which the country has labored for a long time, does most labor at present, and perhaps shall in future, until our whole great fabric is broken down to pieces.

As some means to avert such a catastrophe, or stay it as far as possible, we do earnestly recommend that Congress would cause my *Farewell Address to the People of the United States* to be printed in large, clear type, on four sheets of paper, each put on frame, and hung on the four walls in both Houses; then pass a law, and enforce its strict observance, ordaining that every day during the Session a member in each House, by turns, should read aloud one-fourth of the address before commencing business.

Bost.—Yet Congress, in their ordinance of July the 13th, 1787, excluded Slavery from the northwestern territory of the river Ohio, and the same had previously done the Committee of Three, who, in 1784, had been appointed by Congress to prepare a plan for its temporary government. Thomas Jefferson was in the number.

Wash.—So they did; but that is no precedent for Congress to follow, although they seem to consider it as such. This appears, besides other signs, from those words, "*There*

shall be neither Slavery nor involuntary servitude," which by the Committee of 1784 were inserted in their report, and which on all similar occasions members of Congress do now take care not to omit in their bills, amendments, and provisos. They seem to consider those expressions unalterable, as some sacramental formula not to be touched; whereas one might even think that there is no sound sense in them, as there is no purpose. If by *involuntary servitude* they mean the *hard labor of convicts*, this is never voluntary, while Slavery may be so, and sometimes is. But, not to say that such a disposition would find its proper place in the digesting the penal code, suffice it to observe at present that, since they do not exclude such servitude, but allow it to be the condition of criminals, apparently it cannot be joined in the same phrase with Slavery, when this is excluded in a positive and absolute sense: unless they intend to say that convicts may be condemned also to Slavery, as something harder and lower than the involuntary servitude. But it seems incredible they should mean this, and perhaps no State has lawful power to reduce its own members to Slavery for any delinquency.

Leaving these considerations aside, many a thing may be done by Congress which is not right, and many a power assumed which does not belong to them. And as they may err now, so might they have erred then in this particular. However, the assumption in that ordinance of organizing a temporary government for that Territory, and of excluding Slavery from it, was animated by intentions and tended to purposes widely different from those which have prompted and animated the like acts in later times.

To omit other things, however, you might here remark that both the ordinance of Congress and the previous report of the Committee did openly declare that the principles therein set down were designed to rule those settlements, not only during their territorial condition, but afterwards also when admitted as States into the Union. It was, so to speak, a compact proposed by that Congress, to be accepted

and observed by the future people of those *three* or *five* States. But Congress now limiting their action and assumed power within the transitory condition of a Territory, and meaning not to anticipate nor bind the will of the settlers in regard to their permanent government, it plainly appears that the exclusion of Slavery,—it being positive, and intended to last forever afterwards,—is a manifest contradiction to the professed object of organizing a temporary government.

But the alleged ordinance cannot be a precedent for Congress, because it took place at a time when the Constitution had not yet been formed and adopted,—two years before this Government was organized and commenced proceedings according to its prescriptions. As the present Congress, therefore, have been created by the Constitution, and act by its authority, so it is only by this instrument they must measure their powers, and not by what has been done by the former Congress, which, though Federal, was not the Congress of the government organized and put in motion by the Constitution.

Now, the Constitution makes no allusion to the ordinance of 1787; and if we could be supposed to have alluded to it in the above recited clause, still, by the words therein made use of, we should be understood to have revoked, and denied Congress, those powers which that ordinance might lead one to imagine were implied in it. We give them power merely to regulate, and dispose of, the Territory as property; and this power never can be so stretched as to comprehend also the persons who settle in the Territory, even to the effect of giving them a government and excluding Slavery from it, to the utter destruction of those rights which are inherent, and, what is more, expressly recognized in the States and every citizen.

If, in order to occupy a distant Territory, the Federal Government sent thither a number of citizens to settle, as was the case with other communities, both in ancient and modern times, Congress might then, indeed, legislate for or against Slavery in it, and prescribe to the settlers such form

of government as they thought proper. But, then, the settlement should be looked upon as a colony dependent on the Government who plants it; nor could it ever aspire to having a constitution of its own, and be as independent a State as any in the Union. But this does not conform with our institutions, whose principle it is that the people themselves must frame their own laws and give shape to that community in which they intend to live together.

Those who settle in the Territory, go thither on their own motion, and not because the Government sends them. They settle and stay there in the persuasion that, when there shall be of them a sufficient number, they may mould the form of their own community and enact such laws as they judge to be the best for themselves to be ruled by. And they are sure that, on entering the confederation, they are entitled to be considered in it as a sovereign, independent State, like the others. This being our case, it is inconsistent with both reason and justice to say that Congress have the power to organize for them even a temporary government, or legislate for or against Slavery among them. This, in reality, would be to give them in advance a permanent constitution in disguise.

Not to mention that both the form of government, except that it must be republican, and the exclusion or permission of Slavery, are things so much depending on local circumstances, of which the people themselves on the spot are the best judges, that it were alike improvident, dangerous, and unjust, to leave it to Congress to do it for them on hearsay; even though the information should come from persons otherwise veracious and credible, or from commissioners despatched thither for that purpose.

This supposed power of Congress, if not of legislating on Slavery, at least of giving the people of the Territory a temporary government, is derived by some, not from the clause before spoken of, but from that provision in the Constitution which says: "*New States may be admitted by the Congress into this Union.*" The Committee on Territories,

in a report for Kansas, submitted to the Senate on the 12th of March, 1856, say, "*The right of Congress to pass the organic Act for the temporary government, is clearly included in the provision which authorizes the admission of new States;*" and again: "*So far as the organization of a Territory may be necessary and proper as a means of carrying into effect the provision of the Constitution for the admission of new States, when exercised only with reference to that end, the power of Congress is clear and explicit.*" The principle is true that, where the end is granted, there is granted also the use of the means necessary to that end; but the application is far from being so. For, it is its practical application to the circumstances of particular cases, and its just correspondence with them each time, that proclaim the truth of a general principle.

That Congress may admit a new State into the Union means no more than that, when a State, who is not in the confederacy, wishes to be one of its members, Congress, who represent the Union, have the power to admit her into it. This presupposes that the new State is already existing by herself before admission. It does not include the idea that she has been formed or prepared by Congress. So were all those colonies who did not enter the Union at its first forming, but have petitioned and been admitted into it afterward. The same must be said of any State that may be admitted in future.

There can be no doubt that it is the State who must ask for admission. When this is done, it belongs to Congress to see what she is, and then determine whether the petition is to be granted or denied. Congress, therefore, are merely passive in this business. They have power to admit the new State, if she asks for it; but can they make her come into the Union? So that the power to admit new States does literally and necessarily exclude any previous action of Congress for her formation.

Nor is the matter changed in regard to Territories. Such an important distinction, in so weighty a matter,

should result from express words in the Constitution. It cannot be induced from supposition, nor be the effect of interpretation; though even this could not work it out in the present instance. In order to be justified in saying that Congress are empowered to give the settlement a temporary government, to the end of preparing it to its being admitted as a State into the Union, they should have proved first, among other things, that, when the settlement has the necessary qualifications to be called a State, it must enter into the Union, whether its people will or not. They will indeed ask for admission, if they consult their own interests; but the question here is, whether they *must* ask for it. It is on this "must" that the power of Congress visibly depends.

Such a necessity appears not to have been demonstrated; and whence does it come? Cannot the settlers live by themselves? The fact is this: they buy the public land, because the Government sells it; they settle in it, because it is their property; they live scattered at distances, if few, or together, in a community, if thickly seated, because they are free: and this they have the right to do when only 50, and when 50,000, or 500,000. The difference in the number makes no difference in the matter. But if their entering the Union is not compulsory, the necessary consequence is, that Congress can have no power to force upon them a temporary government as a preparation to their admission,—wherein the principle invoked by the Committee is with truth retorted on them; namely, that where the end is denied, there the use also of the means conducive to that end is necessarily denied.

Bost.—But they, it seems, must finally enter the Union; this being the destination of any settlement in the Territory. It is for that purpose the public land is surveyed and divided into townships, occupying together a space large enough to be a State, with the view that, when properly filled with inhabitants, these might be regarded as the community of a State to be admitted into the Union as one of

its members. This appears from that resolution of Congress, dated October 10, 1780, wherein it is declared, "*That the unappropriated lands that may be ceded or relinquished to the United States by any particular State . . . shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican States, which shall become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence, as the other States.*"

WASH.—Could this be admitted, it would say something to the purpose; but not enough, or it were too much; for then it would follow that Congress may impose on the settlement, not only a temporary government, while it remains in a territorial condition, but also a permanent one when it becomes a State: whereas you confess that in the latter case its people must be the authors of their own laws and form of government. The resolution whose words you have just quoted makes no distinction between those two conditions. Nay, it expresses only the final one by saying that all the settlements "*shall be formed into distinct republican States, which shall become members of the Union.*"

But, not to enter into any details, suffice it to say, that those who settle in the Territory under the Constitution are not bound by that resolution; because the Congress who enacted it was not the present Congress, whose power is here inquired into. And had this Congress been the author of that resolution, what would the consequence be? That in forcing a settlement to be one of the United States, they would arrogate to themselves the exercise of a power which has not been given to them by the Constitution. It is not the exercise of the power that must here be ascertained, but the right to exercise it: it being self-evident that Congress must have the right before they can use it. And in order to affirm that they have the right to exercise a power in any instance, it is necessary to prove first that the alleged power has been expressly granted to them by the Constitution, or is indispensable to the exercise of the power expressly granted.

Henry Clay, in his speech of January 28, 1841, said: "*The Republican party, in whose school I was brought up, and to whose rule of interpreting the Constitution I have ever adhered, maintained that this was a limited Government; that it had no powers but granted powers, or powers necessary and proper to carry into effect the granted powers; and that, in any given instance of the exercise of power, it was necessary to show the specific grant of it, or that the proposed measure was necessary and proper to carry into effect a specifically granted power, or powers.*" The same thing is professed by every man in the Union, and by the Committee themselves in their report mentioned before; above all, it manifestly results from both the letter and spirit of the Constitution. Does this Instrument give Congress the power of which we are now speaking, or even that of making the above-quoted resolution?

The powers expressly granted to Congress, which might refer to the present subject, and which are, in fact, sometimes the one, sometimes the other, adduced to justify their action in it, are first, "*The power to admit new States into the Union;*" and secondly, "*The power to dispose of, and make all needful rules and regulations respecting the Territory and other property belonging to the United States.*" Neither of these two grants mentions the making settlements in the Territory, or prescribing to them a temporary government, or compelling them to enter the Union. Nor can any of these things be considered as granted by implication; as if they were means necessary to the exercise of either of the two powers expressly granted. For, both of these may very well be carried into effect and have full scope, without the help of any of those things. Even without them, Congress may "admit new States into the Union," and may "regulate and dispose of the Territory and other property belonging to the United States."

Unless it is here proceeded from induction to induction, and from implication to implication, which would make in the end a complication never to be extricated, we see

no necessary connection between these two propositions: "*Congress may admit a new State into the Union, therefore Congress may compel her to be one of the United States;*" nor between these: "*A settlement in the common Territory may grow up to be a State, therefore Congress have the power to give it a temporary government, and thus prepare it to become a State;*" nor between these: "*A temporary government in the settlement is a means to its becoming a State and being admitted into the Union, therefore Congress have the power to organize and impose on the settlement a temporary government.* Yet all this, and more, should have been positively demonstrated by the Committee before they could affirm that Congress have the power to organize a temporary government for the settlers in the Territory.

If everything else, that is alleged, or taken for granted, in favor of Congress in this matter, were true and proved, which is not, it would yet remain to be proved that there is for the settlers no other possible way to have this temporary government among them, but that Congress must give it to them. We see no such necessity in the case. Cannot they themselves organize it? It seems they can. If they may, on your confession, frame for themselves a constitution and permanent government, which is more; we do not perceive why they cannot also a temporary one, which is less. And if this their capacity were even doubtful, as it appears to be certain, it would still be enough to exclude the asserted power of Congress.

Bost.—But they being very few at first, and apparently incapable to organize among themselves even a temporary government, it seems fit and more regular that Congress should give it to them.

Wash.—Even admitting it might be so; still firm it would remain that Congress, in order to do it lawfully, must have the right of doing it first. Their power must rest on a foundation that is certain and immovable. It cannot depend on fitness, on more or less regularity. Could such a field of discussion be ever allowed in order to determine the

powers of Congress on any subject, there would be no possibility of agreement, but an endless doing and undoing. The understandings of men, their views and opinions in all matters relating to aptness, regularity, expediency, convenience, use, more, less, better, worse, and not unfrequently even on positive things and principles universally recognized as fixed, are as much different from one another's, as their faces. Thus, in the present instance, others may believe, and it seems with better reason, that it is fit and more regular, and more consistent with republican principles, which recognize in the people the right of making their own laws, and regulating their concerns in the manner they think best for their welfare, to leave to the settlers to organize their own temporary as well as permanent government.

When few and sparse at distances, they have no need of a government, as if they lived in a community: as they are growing in number and thickening in neighborhoods, so can they adjust among themselves their own affairs, and frame what rules they see fit to peaceably live together; adapting and modifying them according to circumstances. And this they seem the better able to do, because, coming generally from the States, they are already imbued with the notions of their respective laws which, though peculiar or different in some respects, yet are not conflicting in regard to the essential points of political and civil life. Especially, if they are friends, or intend to live as good neighbors, as their own interest urges them to do.

For, if they are enemies, the government given them by Congress will not pacify them. It is they who must obey its prescriptions. Perhaps it will be apt, on the contrary, to increase and sharpen their animosities. It is but a natural occurrence if, knowing that the Federal Government concerns herself, or interferes with the affairs of the settlement, the contending parties do count on her for help or protection, which is not impossible being wrongly asked for, or misapplied. Even in their attempts against each other they will measure their strength, not so much by

their number, or the means they have at hand in the Territory, as by the aid they expect to receive from their partisans abroad, chiefly according to their influence, true or supposed, with the Administration and the Congress of the General Government. Hence their strifes, failures, and victories by turns. Had Kansas been allowed to settle from the beginning by the free will and action of its inhabitants, perhaps no contending parties would have been formed there; or rather they would not have dared to go thither to meet and fight as on a battle field. We believe it would not have been the theatre of such and so many enormities. The numerous acts of Congress which have taken place concerning that Territory, and the officers sent thither by the Federal Government, though good and well intentioned, it is not improbable have made a bad case worse.

But, in regard to the power of Congress to legislate for or against Slavery in the Territories, were the matter doubtful, as it is certain and evident, yet the conclusion to be arrived at should be that Congress cannot do it; upon the uncontroverted principle that no power which is doubtful can be exercised to destroy rights which are certain. The right of a slaveholder to settle with his property in the Territory, is both certain and clear, resulting from express provisions of the Constitution: therefore Congress cannot deprive him of it by virtue of a power, which it is only by supposition we do here call doubtful; for it has been positively denied them. Were there no other reason for this, it would be enough to consider that the Constitution cannot possibly have given Congress a power, the use of which must resolve itself into the subversion of principles on which the Constitution itself stands. For, that to exclude Slavery from the Territory, is to deprive citizens of the United States of the use of their property upon the common soil of the Union, appears too evident to be insisted upon.

It is commonly said that the people themselves, in the Territory, when they frame a permanent Constitution for its being received as a State into the Union, may exclude

Slavery from it, even to the prejudice of those slaveholders who, till then, have lived there with their slaves on their own ground. We do not see whence such a right may be derived. If the slaveholder cannot be refused to settle in the Territory at first, much less can he be excluded afterward, when he has settled in it. It were a less wrong to refuse him admittance before he enters, than to expel him after he has been admitted. The Latin verse says:

"Turpius ejicitur quam non admittitur hospes;"

although the slaveholder is not a *guest*, but as much a *master* as the *host* himself. When you have lived with him as neighbor in the same place during the territorial condition of the settlement, and, perhaps, after he has helped you to make it a State, you compel him to leave it.

Bost.—But the slaveholder, on his first entering the Territory, is aware of this condition that, when the place is grown up sufficiently to be a State and have a permanent constitution, then, if the majority of its people should declare it a free State, he must leave the place, because slaves cannot be there. For, if, knowing beforehand the possibility of such an event, he settles in the Territory notwithstanding, it seems that, when such an event happens to be verified, he cannot complain as if anything had been done against his rights, or against his will. At the very moment of his entering the Territory, he must be understood to have given his consent in advance of leaving it, should Slavery be excluded from it afterward; by just the same reason as a freesoiler must submit, if the majority of the people declare it a slaveholding State.

Wash.—This would take away some of the case's sharpness, but does not answer the question involved, and much less justifies, or even excuses such treatment. We might say that there would yet remain a great difference between the condition of the slaveholder and that of the freesoiler. The former is obliged to leave the place and seek other

quarters, or lose his slaves, should the settlement be declared a free State; whereas the latter may continue in it even after its being declared a slaveholding State. And he may do so with the less reluctance, as he is accustomed already to live in the same place with a slaveholder:—not to mention that the establishment of a slaveholder is vaster and more difficult to move and transplant than ordinary farmers'.

But these are minor matters, not to be minded here: your pleading is far from solving the knot. Whence comes to the majority of the people in the settlement the right of excluding the slaveholder at the time when it becomes a State? Who can, or does, impose on him such a condition when he first enters the Territory? The Constitution does not; nor does that condition appear to be imposed on him otherwise. His right of settling in the Territory being once ascertained, there is no power that can deprive him of it afterward. He himself may renounce it; but there is nothing in your statement from which we might presume that he does. Not the whole people of the Union could do that, much less a majority of his co-settlers at any time. By way of fact, they may exclude him, of course; but our present inquiry is whether they exclude him justly.

Bost.—No: it is not a condition imposed on him by anybody; it is rather a tacit agreement or understanding that he must quit the place if a majority of the people, who have settled in it, vote slavery down, when it becomes a State.

Wash.—This seems to be unintelligible language and past, indeed, all understanding. With whom does he tacitly agree, or how is such an agreement entered into and made to appear? It is even impossible to be made.

At the moment of entering the Territory, the slaveholder does agree with nobody. He settles in it, because he has the right to do so, and his purpose is to remain there. He should lose his senses to intend otherwise. Nor does he agree with anybody while he continues in the Territory.

On the contrary, all that he does during his stay is only a series of proofs and an uninterrupted evidence to confirm us in the belief that he persists in the same mind and resolution to remain there.

But this tacit agreement is simply impossible. Could he make it with anybody, he should with those future voters who will declare the place a free State: for they it is who, it is supposed, may exclude him thence. But these very voters, at the time of his entering the Territory and his continuing in it, do not even exist; and, if they did, they could have as yet no will of their own; this depending, as it is alleged, upon their number when the Territory is to become a State.

The truth of it is, the slaveholder settles in the Territory, because he has the right to do so, and intends his settlement should be permanent; but with time he finds himself in the midst of people who are opposed to Slavery, and who, being the greater number, vote it down; and, as he is unable to breast the opposition, he must abandon the place for quiet living, or living at all. To give, then, the case the mildest name, we will say that his exit is the effect of the force of circumstances. As our inquiry, however, is to ascertain, whether anybody, or number of bodies, may justly cause those circumstances to compel him to quit his place, it appears evident that nobody may. No tacit agreement, even if true, can destroy rights expressly agreed upon, and guaranteed by the Constitution. Nor has any force of circumstances ever been the measure of right; and much less can it be the principle on which right is founded.

This imagined power in the people of the settlement, may, perhaps, be traced to this origin: Congress having assumed to legislate against Slavery in the Territories, their power has been, it seems, successfully opposed upon the principle that the people themselves in the settlement have the inherent right of making their own laws and determining on their domestic institutions in their own way. Hence it is concluded that, when the settlement is on the point of

becoming a State to be admitted into the Union, a legal majority of the people, as they may resolve on other matters that concern them, may also declare it a free State. Their power, then, is founded upon the absence of the same power in Congress. Because Congress cannot, therefore a majority of the settlers can. This would seem a strange way of reasoning; for, neither of them might have such power. In new things, and upon the consent of the interested parties, the people in the Territory may legislate as they please for its government; but can they, under the Constitution, deprive a single settler of those rights which have been secured to him by that instrument, and in the lawful exercise of which he finds himself there? If the slaveholder has the right to settle, and does settle, in the Territory, once there, he never can be rightly excluded from his place either by Congress or any majority of his co-settlers.

The just way of proceeding appears to be that, as during the territorial condition the freesoiler and the slaveholder have occupied the same place and in a manner lived together, so might they continue in it afterward when the Territory is become a State. The laws may protect them both, as both may observe, or be made to observe, them.

It must be owned, however, that if matters are left to work for themselves, as they should be, the above contemplated case does rarely, if ever, occur. The slaveholder never will go but where the climate is fit for the physical constitution of slaves, and the soil adapted to those peculiar, almost exceptional, productions in which slave-labor is employed: in other words, he never will go but where he calculates that slave-labor is profitable. Into places naturally adapted to productions requiring ordinary culture, and whose climate does not agree with the African race, he will not move. And the same reasons which invite the slaveholder, the same dissuade and deter the freesoiler. To do otherwise, they should, beside other considerations, forget their own interests; which neither of them can be supposed willing to do. Whenever they do, it must be from jealousy

and party strife, with a view of annoying their political adversaries. In this case, they cannot but repent it afterward: and when they reap the harvest to be expected from the seed they have sown, each one of them must say: "It was my fault; I deserve it."

But whenever such an event should take place (for it is possible, though it is improbable), then, in defect of proper laws, or their due enforcement, in the Territory, as this is within the Union and its inhabitants are mostly from the United States, we would say that it is the General Government who should provide for the emergency and remedy the evil: not by expelling any of the settlers, but by repressing or punishing the agitators and disturbers of the public peace. To this extent may perhaps be stretched the power of Congress to make rules and regulations respecting the Territory belonging to the United States; a stretching which deprives nobody of his rights, and seems moreover commanded by the necessity of maintaining the public order within the Union.

Bost.—But, on being assured of our determination to let slavery remain where it is in the States, and exclude it from the Territories, even now that one of our party, animated by these principles, has been legally elected President, a large number of the slaveholding States have, one after the other, seceded from the Union.

Wash.—To judge from your own statement, we only wonder they have not seceded sooner. This is a good evidence to prove that they were truly attached to the Union, having clung to it so firmly until you have, as it were, snatched them from it. Their separation, being caused by your confessed will to deny them the use of their right in the Territories, a will repeatedly declared in words, and embodied in facts which admit of no doubt, we believe it is chargeable to you rather than to them: and, indeed, it is you that part with them, not they with you. In the same manner, and by the same reason, as, when in private business one partner withdraws from the association, because

the other breaks the terms on which it was entered into, the disrupter of the partnership is not he who retires, but he who by his acts or usurpations forces him to retire.

But much more do we wonder at the very existence of your party, if abolition or restriction of slavery, or any interference with it in States or Territory, enters in its organization; as the account you give of it makes us believe. The formation, and much more the action, of a party in which such purposes are embodied, is nothing less than open treason to the Federal government under the Constitution. Political parties may well be allowed to exist in a republic, especially one like ours; and, when kept within proper bounds, they may even be of use to promote its advantages. They serve also to check each other's progress, lest any of them, if suffered to overgrow, should deviate from the principles of its original institution, and, taking advantage of its strength, attempt innovations and prove a scourge to the community, instead of a benefit, as it should intend to be. For, though there may be some difference in the forms and views of these parties, yet the principal, nay, the only aim of all should be the support of the government and the increase of the common welfare of the whole people. They never should in action, and much less on principle, aim at encroaching on the rights of any portion of the community, let it be never so small. This would evidently be to seek to destroy a part of the principles on which the government itself is founded; and any such party could be called by no other name than that of conspiracy, or rather open revolt.

Bost.—But they cannot secede. The last article of the confederation expressly forbids it, saying: "*The articles of this confederation shall be inviolably observed by every State, and the Union shall be perpetual.*"

Wash.—And you take advantage of these words to turn them to your own account. Because you think yourself sure of your number, and reckon that the Slaveholding States cannot get out of the Union, but must remain in it,

whether they will or not,—you conclude that by this means you may domineer, do with them as you please, treat them as subjects; whereas we intended, the Act of Confederation and the Constitution say, that they should be your equals.

It appears to us, that, in reading the clause you have just quoted, before arriving at its last expression, "*and the Union shall be perpetual*," and before applying them to the Slaveholding States, the Free States should stop to consider, and apply to themselves the preceding words, "*And the articles of this confederation shall be observed by every State.*" Have they observed them?

But you seem to interpret those expressions in a strange manner. If you take them in an absolute sense, as if they said, "*and the Union shall have no end*," you make their authors say a great blunder: for, in this sense, nothing is perpetual in the world,—not the world itself. As for governments, they are even less durable than many another thing, although they are instituted to last. History shows that, whatever their form, they had an end sooner or later. It was justly observed by an ancient historian, that every government includes from its very formation, and carries along within itself, the germ of its own destruction. So does sound wood contain and carry within what consumes it at last.

In governments, however, this is chiefly verified from the fact that its parts, though good, well assorted, consistent, and able to last, if allowed to work by themselves, are frequently misused by those who handle them,—they being men who have different views, and are animated by different passions. The several parts of the government being thus turned out of purpose, and even directed to ends contrary to what they were designed for, their effect is, of course, wholly or partially destroyed. Besides, this derangement and misapplication must finally cause them, not only to stop working, but cease to exist altogether. The natural consequence of which can be no other but the de-

composition of the whole machine they were intended to give life to, and the government must be constructed anew.

But if you take that phrase, as it must be taken, in a relative sense, you shall find the expression, "*And the Union shall be perpetual*," to mean, "*The Union shall last until it is dissolved.*" In other words, the parties engaged in forming the Confederation did not limit its duration to any definite time, and therefore, with all propriety and truth, called it *perpetual*. By this, however, they neither did, nor could intend to exclude, or forbid its dissolution. They anticipated no time for its disruption, but wished, on the contrary, that such an hour should never come, or as late as possible. We now see it did come too soon, and, in our disappointment, must confess the shortness of our foresight. Yet still they were not ignorant that the Union could, and perhaps would, be dissolved. They could not have termed it perpetual, as if it should necessarily last forever, when they well knew that the same means which had brought it into existence might also have put an end to it.

Hence it appears that they made the duration of the confederacy depend on the consent of the confederate States, as their consent had formed it at first; for, the perpetuation of this consent would of course make the Union perpetual. But they knew at the same time that the perpetuation of their consent must have rested, as on its basis, upon the free will of the several States; and this continuation of will in each State to keep the Union standing, they believed would depend on the regard paid to her rights by the other States: for then she should ever feel it to be her interest to remain in the Union rather than be out of it.

They being all sovereign, independent States, it is not by subjection they could be made to stay in the Union. They created the Union; not the Union them. And here you see another reason why the Federal Government, or her Congress, cannot assume to regard and treat a settlement in the territory as their child or pupil, if it is entitled

to enter and be admitted into the Union "*on the same footing with the original States.*"

Nor is it by favor they might be expected to remain in a confederacy once contracted. What I said in my Farewell Address, that "*it is folly in one nation to look for disinterested favors from another*," applies also to States who are bound, like these, by the most intimate ties among themselves under one common government. And, perhaps, the same thing holds true even among individuals, however connected together, in private life.

Now, this feeling of self-interest in each State to abide in the Union because of its advantages, its founders regarded to be such as firmly to be relied upon,—founding their belief on that plain principle dictated by reason, and confirmed true by universal experience,—namely, that a State will ever prefer, even with some inconvenience, to continue in those relations she is in with other States, than disrupt them. Never will she do this, except when, seeing her rights denied or disregarded, and the terms of the compact broken by the other States, she finds it necessary, or less prejudicial, to withdraw and be alone, than remain in their company: so that, in conclusion, the bond which might have made the Union perpetual, in the intention and meaning of its founders, could be nothing else but *justice.*

Now, in this whole business of abolition of slavery in the States, or its exclusion from the territories, would you say upon oath that you have been, that you are, just to the Slaveholding States? And if you feel so as if you could not afford to say it, how can you complain that they have seceded? We repeat, we wonder they have not seceded sooner, but suffered themselves to wait in the Union till the last extremity.

Suppose those States, in the Act of Seceding, had published a second Declaration of Independence, using the very words of the first: "*When in the course of human events it becomes necessary for one people to dissolve the political bonds which have connected them with another, and*

to assume among the powers of the earth the separate and equal station to which the law of nature and nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which compel them to the separation;" and after having literally, only *mutatis mutandis*, repeated the tenor of the following paragraph with its last clause: "*To prove this, let facts be submitted to a candid world,*" they had appended to it the bill of their grievances against the North in detail,—would you have undertaken to prove them false, or lay them to the charge of private men, and not of your party, not of the States? It is not improbable that the world, though it is not very candid, would notwithstanding believe that the slaveholding States have had just cause for separation.

In his inaugural address, your present President insisted upon the perpetuity of the Union, especially, because the Constitution expressly declares in its preamble that one of its objects is, "*to form a more perfect Union:*" and, since the confederacy has not provided for the case of its own termination, he argued that no State can leave it on her own motion, but should have the consent of the other States. For this reason, he looked upon the secession of the slaveholding States to be insurrectionary or revolutionary; concluding that the Union might still regard itself as unbroken, and execute its laws against those States, even by using force, though he would forbear resorting to it. But, as the perpetuity of the Union should be understood in the sense before explained, so it appears that those words, used in the preamble of the Constitution, did not in the least alter its condition with regard to time. They properly mean that the Constitution has made the Union more close, firm, and compact, by adding new ties to the preceding ones, and by bringing its members into a more intimate connection with one another. This is most correctly expressed, to *form a more perfect Union*, but does not make it more lasting. Those words can have little or no reference to its duration;

and, in this respect, they leave it as it was before the Constitution.

Nor is there any wonder that the Confederacy did not contemplate the case of its termination, nor provide how it should be done. The mention of such a case would have been a palpable contradiction to the declaration, "*The Union shall be perpetual.*" Even without mentioning perpetuity, it were a great error for a government to foresee and provide for the case of her own extinguishment in the very act of her organization. Perpetuity must be her wish while coming into existence, although she does not express it, although she is sure that there will be an end. Even in planting a tree, or building a house, one plants and builds with the view that it should last, if possible, to perpetuity; though it cannot.

However, the Confederacy having not provided for its own termination, what could those States do who have seceded? Ask leave of the North to retire? They were sure she would not give it; as they feel sure that she has given them reason to secede. Nevertheless, they may be said to have asked leave; the inaugural address, above alluded to, confessing that "*a disruption of the Federal Union, heretofore only menaced, is now formidably attempted.*" Those menaces, or warnings, on the part of the slaveholding States, that they would secede from the Union if the North did not desist from her opposition to them, were, or may be construed into, as many leave askings. The North has not desisted; but, on the contrary, has confirmed them in the assurance that she would not allow them the use of their right in the common territory, and they have seceded.

But, since the case of secession has not been contemplated nor provided for, it is plain that, if you intend to proceed against those States for any purpose, you must not look to the Act of Confederation, nor to the Constitution, for finding the means and the way; for they say nothing of it. Much less can you resort to force; for they do not authorize it.

It was well said by Henry Clay, in the above-mentioned report on the public lands, that "*the relations between the General Government and the Members of the Confederacy are happily those of peace, friendship, and fraternity, and exclude all idea of force and war.*" Therefore, if arms and violence were resorted to on your part, you must not say that you do it in order to enforce upon the seceding States the laws of the Union; nor that you act by powers given you by the Articles of Confederation or by the Constitution. There are no such laws; nor does either of these instruments give you any such power.

But, if you wish those States to reenter the Union, we think you have no other means but to get their consent for it. This consent, we suppose, you might possibly obtain, if, having been the aggressors, and being in the wrong, you confess it publicly, as public have been the injuries you have offered to the South. Renouncing, at the same time, your political faith in regard to abolition or restriction of slavery, and any interference with it in States or Territory, you should profess to leave that matter exclusively to those who are the only concerned in it.

If the North has courage enough to make such a confession and profession, it will be more honorable to her than her past opposition to the South might have been disgraceful. Besides, it will go a great way toward soothing the wounded feelings of the South, because it looks like a retraction, and begging pardon; which, if honestly meant (and, under the circumstances, you could not but honestly mean it), is most effectual to pacify the injured party and bring about a reconciliation. This we ardently wish for, and earnestly recommend. Nor could it take place but to the great advantage of all, and to the brighter shining of the stars of the Union. And, after the North has done this, if the slaveholding States persist in remaining separate, or wish for separation, we may have something to say to the South also.

Bost.—"Durus est hic sermo:" it were well matters

could be settled by compromise. This was tried two years ago, when many good citizens, both within and out of Congress, did frequently meet in bodies under different names, and were at work, endeavoring to hit on some means capable to restore a good understanding between the parties, and save the Union. It did not succeed then, but it might at last. One, perhaps the less impracticable, mode of effecting a reconciliation, and thus giving peace and plenty to the country, seemed to be the dividing the area of the United States' Territory into two parts, by drawing a line on a certain point, which neither the South may pass with her slaves, on the one side, nor the North with her free-soilers, on the other. It might be regarded as a permanent bar fixed there by the common consent of the parties, excluding, as it were, Slavery from one side of the line, Freedom from the other.

Wash.—This description would represent the Union as sitting astride upon that line with one foot free, the other in fetters! What difference, or advantage do you find in such an arrangement for either party? As if, by relegating Slavery into the extreme corners of this continent, you could imagine you had driven her out of the Union! She would still be in the Union; since both sides of the line belong to the confederacy, and are occupied by States who live under her laws, as sisters, so to say, who dwell under the same roof: for the Constitution covers all.

In the reports and plans digested for this adjustment, which were successively presented in different aspects, and modified, there was said that Slavery was to be "*recognised south of thirty-six degrees thirty minutes.*" This looks like an old line; which, if it has been found to be of no use when new, we do not think could do any service now. But this recognition of Slavery in the United States goes further than we went, and is more than we would do. We allowed Slavery, because it was here existing since many generations, and we did no more by it than secure to the slaveholder in the Union those rights which he was

already possessed of out of it. As to the rest, we did not even mention slaves nor Slavery; and much less did we recognise it in the United States. We would not recognise Slavery in Turkey.

Even at the time when I was yet President, there was in our political parties a propensity of characterizing themselves by geographical discriminations, "*Northern and Southern—Atlantic and Western:*" and in my Farewell Address I warned the people to beware of the danger that might threaten the Union from such sectional demarcations. My second successor in the Presidency, beside others, has expressed in stronger language the same views and predictions in his letters; and the same conclusion shall any thinking man arrive at from the same premises.

We cannot but commend the good intention and zeal which animate those Union-loving citizens, to whose laudable endeavors you have alluded; but we, at the same time, believe that no good can come from compromises, and should wonder if any did. At best they are patches that break the evenness of the Union, and deform it; stumbling-blocks, both for those who enter into the compromise, and for their posterity, to whom they entail in it a never-ending harvest of discord, to say nothing worse. It is most properly termed *compromise;* that is, not a fact, or action, done to last, but only a promise; a common promise if you will, because it is made by the two parties; yet still a promise, which both make and perhaps neither intends to keep.

If not contained by a superior power which both of them are bound to obey, but are left to themselves and expected to fulfil their word because they have given it, certain it is that the party who thinks herself aggrieved by the agreement will break it at the first opportunity, and take hold of even the shadow of a pretext for it.

Many are the examples of compromises, in public as well as private affairs, which have been sooner or later broken as surely as they had been entered into; or have

produced far greater evils than those were which they had been intended to heal. But, laying instances of other times and places aside, how many compromises since 1820 have been proposed and apparently agreed to by both parties in our own, then modified, renewed, repealed, after long and fierce debates, on which so much time and talent has been spent? And all for nothing.

And the less can compromises, especially on certain matters, be spoken of in our Government, because the Constitution itself is a compromise. Only it was entered into with full knowledge and recognition of the rights belonging to the parties; each of whom did willingly give up a part of them in the measure agreed upon, with the view and persuasion that the partial renunciation of her rights would be more than compensated by the benefits accruing to her from the Union. Now, to engraft compromises on the original one, chiefly in substantial points which might be considered as the very roots of the first, would be, if not fatal, exceedingly dangerous. Not to mention that, whoever intends to make alterations in the original compromise, with far greater facility will he cause alterations to be made in the subsequent one, or break its terms.

Generally speaking, a compromise may well take place in doubtful questions, whose decision is not easily attainable with any reliance of certainty on either side. Here the matter is reasonably compromised; and the agreement entered into, as it gives not all to one party, nor denies all to the other, but, striking, as it were, a middle way between them, adjudges to each a part of what was the subject of contest, may be prudently believed to be observed by both as a fact fixed forever. Of which the plain reason seems to be that each party has then as much reason to fear as she has to hope: for, if what is in controversy were to be tried to the last, and the truth finally ascertained, she might possibly lose as well as gain all she seeks after.

It is this uncertainty and doubt equally balanced between the parties, which makes them surrender their

consent to the agreement at first; and the same it is which keeps it standing, and its terms observed by both of them, afterward. Each will compare what she has got by the compromise, not with the whole she might possibly have obtained, but with the whole she might possibly have lost. The result of this comparison must be that she has reason to account herself a gainer, and therefore stick to the agreement.

But, when the matter is as certain as that *two and two make four*, and as clear as the sunlight when there is no cloud in the sky, certainly, there is no possibility of a compromise being made upon it; a compromise, we mean, that might be expected to last; for the same reason as, by dint of speeches and ambiguous words, by deviating from the subject, or overcharging it with heterogeneous matters, it is impossible to alter the condition of that on which the compromise is made. One may, by such means, confound the matter somewhat, and then call it a question; but not for that it is a question. In the conviction of both parties it remains yet as certain and clear as it was before.

Any such compromise, therefore, can be the effect only of force on the one side, and of necessity, or constrained yielding, on the other: for nobody can be supposed to renounce without cause, or voluntarily give away, such rights as he feels sure he is possessed of; although circumstances prevent him from effectually asserting or exercising them, or even oblige him to act so as if he had them not. Whence it is manifest that the sentiments which, in the act of compromising, and ever afterward, animate the two parties, can be no other but these: in the one, the sentiment of wrong done; in the other, the sentiment of wrong received. The former sticks to the agreement, because she is interested to keep what she has got, unless she desires to break it for getting more. Besides, she intends to contain the other party in subjection, and bring her lower, if possible, in order to prevent her from acquiring strength enough to revolt; well knowing this to be her constant wish and expectation.

The latter party, in fact, thinks of nothing but of undoing the compromise, in order to recover what she has lost; and perhaps intends to exceed the measure, as a satisfaction for the wrong she has been compelled to submit to. To accomplish this end, she will watch all opportunities, and take hold of any that offers, even if not prudent, nor perhaps lawful. As she seeks to recover what she is sure belongs to her, so is she apt not to be very nice in the choice of the means she has to employ for that purpose. It is but too common in men to act upon the principle, though false it is, that the end justifies the means. In the mean time both parties are constantly watching each other's movements, anticipating them, and putting all possible obstacles to hinder their course in the direction aimed at. And is this the Union? Certainly, it is not that which we intended to establish and cement between the confederate States. It were far better to dissolve it.

Bost.—There seems nothing to remain, then, but to amend the Constitution, by submitting the controversy to the people in a convention, called according to its forms, and acting in the manner prescribed by it. This we intended, and proposed to do even before the secession took place; but in vain. Such an amendment would be made a part of that instrument, and the controversy be regarded as settled by the Constitution.

Wash.—This is a great mistake, and we would call it a fatal delusion, if we could suppose that you have begun and carried on your opposition to the South so constantly, with the view of getting it at last sanctioned, as it were, with an amendment to the Constitution. To see the mistake, it is enough to observe that such an amendment, not only could not be made, but cannot be so much as proposed in the manner prescribed by the Constitution. Where are the two thirds of both Houses of Congress, or of the Legislatures of the several States, who should propose the amendment; and where the three fourths of the Legislatures who should ratify it when passed? We do not see how can

these quotas be counted if some of the States are not in the Union.

Bost.—But we would count them as present in reckoning those proportions of States and Legislatures empowered to propose and ratify amendments: so that, when the one I speak of were made, those States being absent, we would enforce its observance on them, and they should be bound to keep it in the same manner as if they had been present and consented to its enactment.

Wash.—This is quite another question, or accumulation of questions, whose several decisions cannot be thought of, before the following one is resolved; namely, whether those States can secede from the Union, or must, willing-unwilling, remain in it. Of this we have spoken already, as well as in what manner may the perpetuity of the Union be understood as expressed in the Act of Confederation.

But, had we said nothing about it, yet still it would be certain that, in whatever way you choose to determine on the right of secession, the judge must needs be sought and, if possible, found, out of the Constitution. This instrument says nothing that might refer to it; and so does also the Act of Confederation. And, as this evidently is a preliminary question, which must be decided before you can think of proposing the above-mentioned amendment, so there can be no doubt that, if the Constitution shuts the door to the controversy of secession, much more it does shut it to the proposal of an amendment which should come after its decision.

Not to mention that this amendment's object is to bear against those very States who declare and contend they are not in the Union. For they are the parties chiefly, if not only, interested in it. Now, we fail to see how could such an amendment possibly be made, or, if made, be observed, before it is decided whether these States who should fulfil its terms are, or may be compelled to be, in the Union.

These considerations, however, touch only the surface

of the matter. For, such an amendment, as you call it, cannot take place according to the Constitution, not only on account of its extrinsic form, but also, and chiefly, on account of its essence and destination. It cannot take place if the laws of the Constitution and the Articles of Confederation are complied with.

Long and maturely did we discuss all matters that might pertain to the sound organization and working of this Government. We tried and regarded them in every point of view, and consequently had reason to rest assured that, of what could be conducive to the great end proposed, little or nothing had been omitted, not seen, or not provided for. Hence, in my letter, dated on September the 17th, 1787, wherewith, by the unanimous voice of the Convention, I accompanied and submitted the Constitution, dated and signed on the same day, to the consideration of the United States in Congress assembled, I expressed it to be "*such as had appeared to us the most advisable.*" I made also special mention of the fact that, before arriving at our conclusions, we had, in deliberating, purposely considered and taken into account the differences existing between the several States "*as to their situation, extent, habits, and peculiar interests.*"

Nevertheless, we spoke of amendments, and prescribed the manner in which they should be made; because we were sensible, and willing to confess, that, as any work which issues from the hands of man must bear the mark of imperfection, so might the Constitution, elaborated by us, have also been wanting. Besides, we knew that circumstances, not foreseen by us, might happen in future which should counsel, or even force on the confederacy the necessity of amending the Constitution in the particular matter they turned upon.

But neither what we might have omitted, nor any future change of circumstances, ever could justify, or give cause to, amendments by which what we did expressly contemplate and provide for should be annulled or in the

least altered; especially in matters connected with the fundamental principles on which the Declaration of Independence, the Act of Confederation, and the Constitution themselves stand.

These fundamental principles, and the matters inseparably connected with them, must be looked upon as deposited within a sacred inclosure, unapproachable to any power on earth, except only the will of the whole people of the Union, to be then considered as one person. They cannot, therefore, be touched upon, much less destroyed or altered by means of amendments; certainly not by authority of the Constitution either express or implied.

They are: The independence and sovereign power of all the confederate States, each within the limits of her territorial jurisdiction, save what they themselves have ceded and surrendered, or more properly delegated, to the Federal Government, to be exercised by her in their name and for their sake; their perfect Equality among themselves, reciprocally, so far as the enjoyment of their political rights, their part in the administration of the Federal Government, and their participation in the benefits or losses resulting from all her measures, may be concerned: Fundamental principles and matters not to be touched by any amendment, are also the perfect Equality of all the Citizens of the United States, no matter to what State they belong; and their right of personal Freedom, Life, and Property, and its free use. This is the chief part and quality of property: for, property without its use is a useless name.

There is no need to advert, it being too obvious, that the rights of the States have been acknowledged and secured to them, in consideration and behalf of their respective citizens; for these it is that make the State. Consequently, any attempt against their private rights is just the same thing as if the public right of the State, to which they belong, and which they represent, were infringed upon.

We take it to be uncontrovertible and uncontradicted that an amendment, whose end should be to destroy wholly,

or in part, any of the above-mentioned principles, or any of the rights guaranteed to the States or individual citizens, cannot be made, nor proposed according to the forms of the Constitution and in the manner prescribed by it. Otherwise it must be maintained that the Constitution not only contradicts itself, but prescribes the mode of its own destruction. Had it done, or intended so, then, instead of amendments (whose end must be to complete and perfect what is wanting, not to demolish what has been established and guaranteed), such alterations should be called what they are; namely, a destruction of the Constitution, so far as their subject matter extends.

Now, the amendment you speak of belongs precisely to the class which I have just described; it being intended to exclude Slavery from the Territory belonging to the United States. Visibly, this is the same thing as to say that the citizens of the Southern States cannot settle in the Territory with their slaves; the same as to say that the slaveholders are deprived of the right to use their property in a place which belongs to them as much as to any other citizens. For, if this is not to dispossess citizens of what is acknowledged and secured to them by the Constitution; if it is not to destroy also the equality of the States to which these citizens respectively belong; then the notions of things are overturned, or there is no sense in language.

Bost.—But the proposed amendment would be made by the voice and consent of a large majority of the people. The slaveholders, therefore, must acquiesce in it when enacted; the legislation by the voice of the majority being a law of the Constitution.

Wash.—So it is: but in matters permitted; not in matters forbidden, nor those which have been expressly provided for in that instrument. Such is the subject on which the proposed amendment should turn. Its objects are no new things. Slavery and slaves we have contemplated, and have, in express terms, secured to the masters all the rights which they had upon them, the right of property.

Nor is the Territory belonging to the United States any new thing. We made of it an express mention, and empowered Congress to dispose of and make all needful rules and regulations respecting it; of which we have treated before. Consequently, these things cannot be touched nor altered by any majority of the people to the prejudice, I do not say of the minority, but of a single citizen.

Majority is nothing else but the mode of ascertaining the truth, or the will of the community about what must be done in given subjects of common interest. This mode is, not only the best that human prudence could devise, but is indispensable, the only one that may be used in republican governments. The voters being all equal among themselves, their votes also must, of necessity, be all of equal weight. And whenever they happen to be divided, it is plain that the majority must carry the point; because, not only there is a reasonable presumption, but necessity forces on us the conviction, that the right decision is with the greater number. There is, in fact, no reason why of ten voters, all other things being equal, *four* should be preferred to *six:* but there is, on the contrary, a very good reason, why *six* should be preferred to *four:* and that reason is just because six is more than four.

It may, and does happen, that the few see better than the many, or even one better than a great multitude; but, when a general rule must be fixed to ascertain the will of the people in what equally affects every individual, and the rule be based upon the principle of individual suffrage, there can be no other way to proceed rightly, but this: "What the greater number agree and concur in, that is good for the community, and that must be done."

All this, however, must necessarily be understood in those matters only, which, in the Government's first organization, have been submitted to the popular vote. For, when the matter itself cannot be the subject of discussion and suffrage, either because it has been pre-occupied and decided by the whole people at the time when they first

formed the government, or because it is not of public interest, but affects only a portion of the community; then, it is manifest, majority or minority have nothing at all to do with such a case. It cannot be so much as proposed to the popular assembly against the will of the parties concerned; and far less can it be treated and deliberated upon by any majority, let it be never so large.

To assert or maintain the contrary to this were nothing less than to take away the very foundation of republican governments, and put in its stead the basis of a despotism which, in its action and effects, would be far worse than any tyranny.

I have before hinted that, in order to measure the weight of suffrages, or compare majority with minority, and decide that the latter must acquiesce in the judgment and will of the former, expressed in the form and manner prescribed by the Constitution, the subject matter must be such as equally to interest all the citizens of the Union. This not only is dictated by Reason and sound Policy, but the contrary is absolutely impossible being just. Now, Slavery is not a common concern in the Union, but is exceptional, belonging only to one portion of its members. And how can, consistently with justice, that whole portion of the people who are not concerned in Slavery, legislate upon it to the prejudice of that other portion of the people who are the only ones interested in it?

Had you invited the Slaveholding States to meet and determine between themselves, Whether Slavery is to be excluded from the common territories of the Union, that being accounted final decision, which two thirds, or any majority of them should agree to, it would have been less evil; although such a proposal on your part would still have been unjust and unconstitutional,—those States having a perfect right of refusing to act upon your call. But to propose an amendment to the Constitution, to be made by your own agency and vote, upon a matter in which you have no interest whatever, except a self-assumed one, and a deter-

mined, well-known will of putting it down, while the decision, if made to your satisfaction, is to bear exclusively against that portion of the community who are the only interested in it,—upon a matter, moreover, which has already been taken in hand and positively determined by the Constitution itself,—appears to us to be such a thing as we know not how to characterize, nor by what name to call.

If you are sure of your numbers, the question is already decided; and by finding some easier way of collecting the votes than is to formally assemble the people in a convention, you might as well enact the law excluding Slavery from the Territories at once. By this means, besides saving time and trouble, you would not add to the injustice of the enactment the greatly aggravating circumstance of making us, as it were, your accomplices. For, when you use the form of calling the people into a solemn convention, it seems that, by covering what you do with a cloak of legality, you intend to appear so as if you acted by the authority and power given you by the Constitution.

We know not whether the world would believe that this instrument had any part in the deed, either by occasioning, or authorizing, or sanctioning it; although it were not for your interest that they should believe so. Certain it is, however, that such a deed would stand before mankind as a monument, that in the United States of America one portion of the people have, by a solemn enactment, dispossessed the other portion of their fellow-citizens, who are unwilling, of rights which their common law had secured to all.

We forbear mentioning the disastrous effects which such a glaring injustice could not fail to produce in both public and private affairs. The least bad, and we wish it were the only one, would be the final dissolution of the Union,—perhaps immediate, but surely at no long time afterward. Although the sooner were this effected, under the circumstances, the better would it be for all.

As to its effects abroad, we believe that, in the estimation of the world, there is nothing which a people would be

deemed not capable of doing, who could, not only connive at such a deed, but do it themselves. By a natural consequence, everybody would be afraid to treat, or have anything to do with them, except when compelled by necessity, or sure of present advantage,—which could not be but to their loss.

But the evils which it would cause among themselves and their posterity in all matters whatever, are too numerous to be mentioned, as they are too great to be adequately estimated. The Lord Bacon, whose words I value more when, seated in common conveyances, he makes excursions on law or politics, than when, mounted on his hobby, he intends to travel through the fields of Natural Science, gives a rather strange interpretation to that proverb of Solomon: "*Fons turbatus pede, et vena corrupta, est justus cadens coram impio*," saying: "*Here is noted that one judicial and exemplar iniquity in the face of the world doth trouble the fountains of justice more than many particular injuries passed over by connivance.*" The fountains of justice can never, indeed, be troubled by any iniquity on the part of men; they should not be fountains, if they could; but if he means to point to the comparative effect of bad examples, he speaks wisely and truly. With still more truth we say, however, that one single public, as it were, governmental injustice does incomparably more harm to a community than a great number of private ones unpunished put together.

So long as your animosity against the South in regard to Slavery has been confined to expression of opinions,—to debates, even in Congress and on public measures,—to acts and injuries perpetrated by private individuals, or even bodies of men,—it was a bad thing, indeed, to be effectually repressed or punished, and its recurrence prevented. But yet, though unpunished or unnoticed, it might be regarded as the working of human passions which can nowhere be wholly subdued,—vicissitudes that will ever occur in large communities of men, especially one like ours. But the

moment any such thing should be embodied in a law, and, as it were, sanctioned in principle,—when especially it should be covered with the name of amendment, appended to the Constitution, and thus made to take its lustre, so to say, from the light reflected by the gold of that instrument, —that moment it would change its character as well as its influence. It would then represent the morality and the ideas of justice, not of private persons, how numerous soever, in the community, but of the people in a body, of the community itself, of its Government, of its very laws.

But suppose the amendment were proposed and enacted according to your wish: notwithstanding so great a success, you would have gained nothing after all. As it is certain that to exclude Slavery from the common territories, the slaveholders being unwilling, would be a partial destruction of the rights guaranteed to the confederate States and their citizens,—so it is likewise certain that the partial destruction of those rights would be an alteration made in some of the articles of the Act of Confederation which bound them together when they formed the Union. Now, the last article of this act ordains that "*Every State shall abide by the determination of the United States, in Congress assembled, on all questions which by this confederation are submitted to them.*" The question of Slavery in States or Territories has not been by the Confederation submitted to the United States in Congress assembled; nor has it been submitted to them by the Constitution afterward: therefore, no State, who should be unwilling, could be bound to abide by the disposition embodied in your amendment.

But there is more in that article. For, after declaring, "*The articles of this confederation shall be inviolably observed by every State, and the Union shall be perpetual,*" it immediately subjoins, "*Nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislature of every State.*" As, then, the amendment excluding Slavery from the Territories

would be an alteration made in some of the articles of the confederation, so it is plain that, when made, it could not be valid nor enforced until it were confirmed by the Legislature of every State,—that is, of all the States. Do you think the Legislatures of the Slaveholding States would confirm it? This would depend on their own will. Suppose they should withhold the confirmation required: what would the consequence be? Either you must renounce the amendment, and look upon it so as if it never had been made, or the Slaveholding States, by the very act of refusing to confirm it, would place themselves out of the Union. And thus, after making the amendment, you would find them there where they are before its making.

You may here remark how different language that article uses for the different cases therein contemplated. "*On all questions which by this confederation are submitted to them,*" it simply says that "*Every State shall abide by the determination of the United States in Congress assembled;*" without adding anything else. The reason is, because, as each State has already agreed on the questions to be submitted, as well as on the manner of deciding them, so the decision made in any of them in the usual way, or by majority, is of course binding for every particular State. Although she does not approve the resolution at the time when it is made, yet, having consented, and, as it were, approved it in advance when she entered the Union, she must now make good her word.

But when an alteration is to be made in any of the articles of the confederation, then, in order to bind any one of the States, it is not enough that the determination is agreed to by the United States in Congress assembled: it is also necessary that every State, or her Legislature, confirms it. The reason of the difference appears to be manifest; because, this being a new thing, every State, in regard to it, is yet in possession of her original right of approving or disapproving, as she judges best for herself: In the same manner, as she would have had the right to approve or dis-

approve at the time of her entering into the confederation, if the alteration now made had been proposed then. That consent which she has not given before, she is required to give afterward.

If you wish, therefore, to exclude Slavery from the common territories by act of Legislature, which the Slaveholding States should be obliged to observe, you have no other way to proceed rightly, but previously to get their consent for its proposal as well as their promise that they will obey its prescriptions when passed. They may possibly consent to it. You might even observe for its enactment the forms and manner which the Constitution prescribes for making amendments: not for that, however, would it be an amendment to that instrument; and much less could it be regarded as made by its authority and power. The power on which its validity would rest, is only the free concurrence and consent of the Slaveholding States.

With regard to the Constitution, such a law, when enacted, might indeed be made a part of that instrument: not, however, in the light of an amendment, as if correcting an error, or filling up an omission, in it, but rather in the light of an addition, or modification, to say the least. For, in reality, its import would be a partial destruction of the Constitution; since, so far as its working and object extend, by so much the principle of equality between the States and citizens of the Union in the enjoyment of the right of property, would, in regard to the slaveholders, be manifestly diminished.

To conclude: In order to settle forever this unfortunate quarrel between the North and the South, there are, in our judgment, but three ways: either the one or the other of them.

The *first* is, that the North must unconditionally abjure her political creed concerning the abolition of Slavery and its exclusion from the common territories of the Union; but must profess, instead, that she leaves its management and control exclusively to those States wherein Slavery exists.

This mode we chiefly recommend, it being the best and safest, because it is the justest. And the North should do this without pretending that she makes concessions, or bestows favors upon the South; for she would do no more than comply with a duty which the strictest justice, as well as the Constitution, and her own word solemnly pledged on entering the Union, command her to perform.

The *second* is, that the Slaveholding States, for themselves and their citizens respectively, should renounce once forever that part of their right which by the Act of Confederation and the Constitution enables them to settle with their slaves in the common territory of the Union. This they might do: and in case they did, it is not the North who could say that she uses liberality, or even moderation, toward the South; as if, in contenting herself with the exclusion of slavery from the Territories, she gave up the best part of her purpose, by not insisting further upon its absolute abolition (for neither of these things she has any right to pretend). On the contrary, it is the South who, in contenting herself to contain Slavery within her now existing States, would renounce the right she has with regard to the common territories. Which her renunciation, if it should not be acknowledged as a favor, would certainly be a concession she makes to the North.

Whether the one or the other of these two ways is entered upon, there should be enacted a law (which, though unnecessary by the Constitution, is rendered indispensable by past experience), by which Congress, confining their action to matters of common interest to all the United States and their citizens indiscriminately, should be forbidden, not only to meddle with slaves or slavery anywhere, but, under heavy and strictly enforced penalties against the violators, those very names should never be suffered to be pronounced in the hall of either House, except only upon petition of the Slaveholding States themselves; and this for the sole purpose of executing, if the case occurs, the laws

of the Constitution in those matters on which this document empowers Congress to determine.

The *third* is, that, if neither of the two preceding modes can be realized, the Union should be peacefully dissolved; dividing and apportioning the common property on every State in just proportion: and where the division in kind should for any reason prove impracticable, there the portion thus withheld should be compensated in money to the party to whom it belongs. This mode we must recommend as the only thing that remains. The States would thus separate from one another as partners do when, at the end of the association, either because its appointed time has expired, or because supervening circumstances render its continuance impossible, they distribute among themselves the common stock, and each carries home his own.

And, whether the States prefer to remain single, each by herself, or the so called free on the one side, and the slaveholding on the other, choose to form a confederacy (or rather continue in the Union) by themselves respectively, they all should reciprocally enter into a treaty, as it is styled, of perpetual amity and friendship. Nothing can replace the Union, as we formed and cemented it: but when, after trying all means in their power to restore it, the trial proves ineffectual, the next thing to it, though at a great distance, is that they should be strangers, but friends.

Such a treaty or league as I have hinted at, they, in that case, should not lose one moment to make; it being not only advantageous, but we might say indispensable to their welfare, and perhaps to their very existence as independent sovereignties. It would also check, if not prevent altogether, European intermeddling with American affairs in any of the States; against which evil they, every one of them, can never be too careful in guarding themselves. For it could not but create animosities and bring confusion among them, and sooner or later encompass their ruin.

We doubt not but that justice, self-interest, sound policy, and prudent foresight alike do imperatively demand of

every one of the States to pursue such a course as I have pointed to; and they will enter into it without delay, nor ever deviate from it, if they know their own advantage and intend to secure it with the means they have in their hands.

Most worthy of consideration, and alone sufficient to determine them upon that course, is the fact, that they all live upon the same continent, occupying, as it were, the same soil in a continuity of area, although vast tracts of land between them are yet unseated; and that their respective governments are of republican form, nearly the same in all.

Add to this that, besides a community of language, habits, and manners, not to say of kindred, they have also many common interests, whose combined working, by increasing its amount and enlarging its sphere of operation, could not but produce the most beneficial results amongst them.

And those productions, whether natural or artificial, which are peculiar to them respectively, they should exchange among themselves, if not exclusively, yet to the full extent of their reciprocal wants; leaving the rest for foreign commerce.

Being accustomed to the same weights, measures, and coin, they might retain them and even adopt the same tariff throughout; except, perhaps, where stringent reasons in distinct localities should counsel a modification in some articles.

Thus each of the States might still enjoy the blessings of a free government; nay, of the Union itself, as nearly as possible. To secure this, they should leave nothing untried; and any other considerations should yield to that. Since they could not, or would not, be good sisters, they may yet, or should be, good neighbors and friends. And, perhaps, Separation will make them more closely united than did the Union.

In the foregoing Dialogue, I fear I have made Washington omit some things which he would have said, and say others which he would have omitted, or said otherwise than I make him speak. Nor is it impossible that in the eyes of some people I make him appear so as if he were what is termed an *Extremist.* Had he not spoken through me, I would say that he is no Extremist, but speaks only reason and truth. As Truth is one, perfectly round, and of unalterable size, ignoring alike the more and the less, so it cannot be split, nor ever be reconciled with half measures.

But for all and everything that Washington might seem to have said or done amiss in the preceding pages, I would confess my own fault, and take all the blame to myself.

Cae. S.

New York, *February* 24, 1863.

THE END.

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